

NOTICE PUBLICATION/REGULATIONS SUBMISSION

CERT

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2009-0616-11	REGULATORY ACTION NUMBER 2010-0326-01C	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

2010 MAR 26 PM 12:34
OFFICE OF
ADMINISTRATIVE LAW

FILED

In the office of the Secretary of State
of the State of California

MAY 10 2010

At 1:15 O'Clock P M.
DEBRA BOWEN, Secretary of State
By *[Signature]*
Deputy Secretary of State

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY
California Department of Social Services

AGENCY FILE NUMBER (If any)
ORD #0309-03

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE ☐ Notice re Proposed Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn		NOTICE REGISTER NUMBER 2009#26-2	PUBLICATION DATE 6-26-2009

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Title IV-E Foster Care Overpayment Regulations	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2009-0619-07E, 2009-1216-03EE
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND Sections 11-425, 22-001, 22-003, 22-009, 45-302, 45-303, 45-304, 45-305, and 45-306
	REPEAL
TITLE(S) MPP	

3. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code §11346)	☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	☐ Emergency Readopt (Gov. Code, §11346.1(h))	☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4)		☐ File & Print	☐ Print Only
☐ Emergency (Gov. Code, §11346.1(b))	☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	☐ Other (Specify)	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

February 25 through March 12, 2010

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

☐ Effective 30th day after filing with Secretary of State	☒ Effective on filing with Secretary of State	☐ \$100 Changes Without Regulatory Effect	☐ Effective other (Specify)
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☒ Department of Finance (Form STD. 399) (SAM §6660)	☐ Fair Political Practices Commission	☐ State Fire Marshal
☒ Other (Specify) County Welfare Directors Association		

7. CONTACT PERSON Zaid Dominguez, Manager, Office of Regulations	TELEPHONE NUMBER (916) 657-2586	FAX NUMBER (Optional) (916) 654-3286	E-MAIL ADDRESS (Optional) Zaid.Dominguez@dss.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>[Signature]</i>	DATE 3/25/2010
TYPED NAME AND TITLE OF SIGNATORY Robert Garcia, Chief Deputy Director	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

MAY 10 2010

Office of Administrative Law

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 01-09) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

Use the form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the name of the agency with the rulemaking authority and agency's file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations and the statement of reasons. Upon receipt of the notice, OAL will place a number in the box marked "Notice File Number." If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Gov. Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the OAL file number(s) of all previously disapproved or withdrawn filings in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). Submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Gov. Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Gov. Code §11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A and insert the OAL file number(s) for the original emergency filing(s) in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B, including the signed certification, on the form that was previously submitted with the notice. If a new STD. 400 is used, fill in Part B including the signed certification, and enter the previously assigned notice file number in the box marked "Notice File Number" at the top of the form. The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and insert the OAL file number(s) related to the original emergency filing in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B).

CHANGES WITHOUT REGULATORY EFFECT

When submitting changes without regulatory effect pursuant to California Code of Regulations, Title 1, section 100, complete Part B, including marking the appropriate box in both B.3. and B.5.

ABBREVIATIONS

Cal. Code Regs. - California Code of Regulations
Gov. Code - Government Code
SAM - State Administrative Manual

For questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law Reference Attorney at (916) 323-6815.

Amend Section 11-425.122 to read:

Post-hearing: Amend Section 11-425.122(a) to read:

11-425 RESPONSIBILITIES OF COUNTY WELFARE DEPARTMENTS

11-425

- .1 The county welfare and probation departments' responsibilities shall include, but not be limited to, the following: (Continued)
- .12 Recommending the establishment of a new program by a new or existing provider, or a program change which is either more than one RCL greater than the original RCL determination or a program change to RCL 13 or 14. (See Sections 11-402.41, .42, and .43). The recommendation is to include: (Continued)
- .122 Provider is capable of effectively and efficiently operating the program.
 - (a) The county shall ~~use reasonable efforts to~~ determine whether a new or existing Board of Directors member, Executive Director, licensee and Program Administrator were employed in similar capacities in a corporation licensed to operate a group home or a foster family agency that has not fully repaid any overpayment of AFDC funds, or was the respondent in a community care license revocation accusation within the past three years. ~~Reasonable efforts~~ Counties shall ~~include~~ contacting the ~~department, Foster Care Rates and Audits and Rates Bureau Branch,~~ and the Statewide Children's Residential Program Office of the Community Care Licensing Division. If the county determines that one or more of these persons were employed in similar capacities in such a corporation, the county cannot determine that the provider is capable of effective and efficient program operation, unless the county finds that compelling reasons exist to believe that the person or persons so identified are now capable of effective and efficient program operation, and shall include those reasons in the recommendation. (Continued)

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code, Chapter 1294, Statutes of 1989, Section 23; and Senate Bill 84, Chapter 177, Statutes of 2007, Section 32.

Reference: Sections 11462(g)(2), 11462(i)(2), 11462.01(b), and 11466.23, Welfare and Institutions Code.

Amend Section 22-001(c)(2) to read:

22-001 DEFINITIONS

22-001

The following definitions shall apply wherever the terms are used throughout Division 22.
(Continued)

(c) (2) Claimant - The person who has requested a state hearing and is or has been any of the following:

(G) A foster care provider, including group homes and foster family agencies, who request a hearing to challenge a county action to recover an overpayment under Sections 45-304, 45-305, and 45-306, except for overpayments requests made by a county pursuant to Section 45-304.124. (Continued)

Authority cited: Sections 10553, 10554 and 10604, Welfare and Institutions Code; and Senate Bill 84, Chapter 177, Statutes of 2007, Sections 32 and 33.

Reference: Sections 10051, 10613, 10950, 10963, 11209, 11323.6, 11323.8, 11466.23, 11466.235, and 11466.24, Welfare and Institutions Code; Sections 6700, 6701, 11425.10, and 11425.60, Government Code; 45 CFR 205.10; 45 CFR 205.10(a)(4)(i)(B); and 45 CFR 255.4(j)(1) and Part 256.

Amend Section 22-003.1 to read:

Emergency Filing: Amend Section 22-003.15 to read:

Post-hearing: Amend Section 22-003.15 to read:

22-003 RIGHT TO A STATE HEARING

22-003

.1 A state hearing shall be available to a claimant who is dissatisfied with a county action and requests a hearing in the manner set forth below. (Continued)

.15 There is no right to a state hearing regarding overpayments made to foster care providers including group homes and foster family agencies where the claimant entered into a voluntary repayment agreement, ~~or where the county requested voluntary repayment~~ under MPP Section 45-305.231.

Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code; and Senate Bill 84, Chapter 177, Statutes of 2007, Sections 32 and 33.

Reference: Sections 10613, 10950, 11209, 11466.23, 11466.235, and 11466.24, Welfare and Institutions Code; 45 CFR 205.10; 45 CFR 235.112(c)(2); 45 CFR 255.4(j)(1) and 256.4(b); and Madrid v. McMahon (1986) 183 Cal. App. 3rd 151, In Re Jennifer G. (1990) 221 Cal App. 3rd 752 and In Re Moriah T. (1994) 23 Cal. App. 4th 1366.

Amend Section 22-009.1 to read:

22-009 TIME LIMIT ON REQUEST FOR A STATE HEARING

22-009

- .1 The request for a state hearing shall be filed within 90 days after the date of the action or inaction with which the claimant is dissatisfied.
- .11 Except as provided for in Section 45-306.3, if the claimant received an adequate and language-compliant notice of the county action, the request for hearing shall be filed within 90 days after the notice was mailed or given to the claimant. If adequate notice was required but a notice was not provided, or if the notice is not adequate and/or language-compliant, any hearing request (including an otherwise untimely hearing request) shall be deemed to be a timely hearing request. (Continued)

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Senate Bill 84, Chapter 177, Statutes of 2007, Sections 32 and 33.

Reference: Sections 10950, 10951, 11466.23, 11466.235, and 11466.24, Welfare and Institutions Code and Morales v. McMahon (1990) 223 Cal App. 3rd 184, 272 Cal. Rptr. 688.

Amend Section 45-302.2 to read:

Emergency Filing: Amend Section 45-302.231(b) Handbook to read:

Post-Hearing: Amend Section 45-302.2 to read:

45-302 PAYMENT (Continued)

45-302

.2 Payment Conditions (Continued)

.23 ~~Child Temporarily Absent Absences~~

.231 When an AFDC-FC eligible child is temporarily absent from an eligible facility such as for school, work or training program, hospitalization, visiting, vacationing, emergency circumstances, the county ~~shall have the option of making~~ may make payment to the eligible facility from which the child is absent in order to meet the child's needs. The payment shall be made to one of the payees listed in Section 45-301.1 or 45-301.2.

(a) A child is determined to be temporarily absent when he/she is absent for no more than 14 days in a calendar month.

(b) (Continued)

HANDBOOK BEGINS HERE

~~Section 8.3B, Question #7, Child Welfare Policy Manual limits temporary absences to a period not to exceed 14 days:~~

~~"The State may provide a full month's title IV-E foster care maintenance payment to the licensed provider if the brief absence does not exceed 14 days and the child's placement continues with the same provider. Otherwise, the State must prorate its claims if the child is absent from the placement for more than a reasonable brief period."~~

~~The Administration for Children and Families, Region IX, has determined that a reasonable brief period is no more than 14 days in a calendar month. Below are some examples provided by Region IX that speaks to the issue of temporary absence.~~

EXAMPLE SCENARIO #1: The youth is in a foster home placement and unexpectedly runs away from the placement on January 24th. The child returns to the same home 14 days later on February 7th. Could the county provide two full months of a foster care payment to the provider?

Because the child was not absent in January for more than 14 days and was not absent in February for more than 14 days the county could provide two full months of foster care payments to the provider.

EXAMPLE SCENARIO #2: The youth is in a foster home placement and unexpectedly runs away from the placement on January 24th and returns to the same home 18 days later on February 11th. In this scenario could the county pay the provider a full month of IV-E maintenance payment for January?

The county could pay the full months of January AND February since the child was not absent more than 14 days in each month.

EXAMPLE SCENARIO #3: The youth is in a foster home placement and runs away from placement (or is hospitalized) from January 2nd to the 14th and then again from January 20th through 27th. In this scenario could the county pay the provider a full month of IV-E maintenance payment for January?

Because the youth was absent from placement for more than 14 days in the calendar month, the county would have to prorate the maintenance payment to reduce the payment by the number of days exceeding 14 days in the calendar month.

HANDBOOK ENDS HERE

.24 (Continued)

Authority cited: Sections 10553, 10554, and 11209, Welfare and Institutions Code.

Reference: Section 7911.1, Family Code; and Sections 361.21, 366, 727.1, 11017, 11056, 11400(f), 11401, 11402, 11403, 11405, 11269, 11466.24, and 16516.5, Welfare and Institutions Code; Section 472(a)(1), Social Security Act.

Amend Section 45-303 to read:

Post-hearing: Amend Section 45-303 to read:

45-303 PAYMENT DELIVERY

45-303

- .1 (Continued)
- .2 As a condition of Payment Delivery, provided the county has provided adequate written notification, then the county may require a foster care provider to:
 - .21 ~~Timely~~ Report timely that a child received care from the provider for the entire month.
 - .22 ~~Timely~~ Report timely the date the child left the provider's care when the provider did not care for the child for the entire month or the number of days in the month the provider cared for the child when the child leaves and returns after a temporary absence of 15 days or more; and
 - .23 Provide all relevant verifications upon county request.
- .3 In advance of the county application and operation of Section 45-303.2, the county shall include in its written notice, the deadline for provider submissions of information specified in Section 45-303.2.
- .34 Where the county has required a provider to comply with Section 45-303.2, and the county has provided adequate written notification of information required and consequences as provided in Sections 45-303.3 and .4, failure by the provider to provide the required information required timely may result in the payment being delayed by no later than 15 days after the information is submitted to the county.
- .5 Failure of the provider to provide required confirmation may result in the county not making payment.

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Senate Bill 84, Chapter 177, Statutes of 2007, Section 33.

Reference: Section 11466.235, Welfare and Institutions Code.

Amend Section 45-304 to read:

Emergency Filing: Amend Sections 45-304.113, 45-304.32 (Handbook), 45-304.42 and .421 to read:

Post-hearing: Amend Section 45-304 to read:

45-304 AFDC-FC OVERPAYMENTS FOR FOSTER
 CARE PROVIDERS - GENERAL

45-304

- .1 Overpayment Recovery for Foster Care Providers, including but not limited to, Group Homes, Foster Family Agencies, Small Family Homes, Foster Family Homes, Relative Homes, Nonrelative Extended Family Members, and Non-related Legal Guardians
- .11 An overpayment is any amount of aid paid which a foster care provider received on behalf of a child to which the provider was not entitled, or an expenditure made by a Foster Family Agency or a Group Home provider not in conformity with Section 11-404.
- .111 Each county must develop and institute a program of internal controls to avoid making overpayments.
 - (a) The program may include policies and activities conducted prior to the issuance of payment.
 - (b) As a condition of Payment Delivery, Section 45-303, the county may require a foster care provider to:
 - (1) Timely report that a child received care from the provider for the entire month.
 - (2) Timely report the date the child left the provider's care when the provider did not care for the child for the entire month or the number of days in the month the provider cared for the child when the child leaves and returns after a temporary absence of 15 days or more; and
 - (3) Provide all relevant verifications upon county request.
 - (c) Where the county has required a provider to comply with Section 45-303.2, failure by the provider to provide the information may result in the payment being delayed by no later than 15 days after the information is submitted to the county.
- .112 If the foster care provider reports, or if the county otherwise determines, that the foster child resided in foster care placement for less than the full month, the county shall prorate the payment, unless Section 45-304.123 applies.

- .113 An overpayment does not occur when the county exercises the option to make payment to an eligible facility for an ~~absent~~ child temporarily absent, for a period not to exceed 14 days in a calendar month, in accordance with Section 45-302.231.
- .12 The county shall take all reasonable steps necessary to promptly assess whether an overpayment has occurred.
- .121 Overpayment assessments shall include discovery of the overpayment and documentation of the overpayment.
- (a) Discovery of overpayments. The county shall ensure that a written program of internal controls exists and operates on an ongoing basis to discover, in a timely manner, payments made to a foster care provider for which that provider was not eligible to receive.
 - (1) Methods of discovering the existence of payment errors and determining the amount of the payment error shall be implemented and include, but not be limited to: supervisory review of payments made; reconciliation between social worker or probation officer and eligibility worker information; and a quality assurance system.
 - (b) Documenting overpayments. The county shall document the amount of the overpayment, the actual dates of the days overpaid, the date of discovery of the overpayment, the aid code for which the overpayment was made, and include a description of the circumstances that resulted in the reasons for the payment error.
 - (c) The overpayment is not identified until it has satisfied the requirements in Section 45-304.5.
- .122 The county shall demand and collect overpayments from a Foster Family Home, an approved home of a relative or non-relative extended family member, an approved home of a nonrelated legal guardian, Group Homes, Small Family Homes and Foster Family Agencies for any period of time in which the foster child was not cared for in that home, except as provided in Sections 45-304.123 and 45.304.125.
- .123 The county shall not demand collection of overpayments made to a Foster Family Home, an approved home of a relative or non-relative extended family member, or an approved home of a nonrelated legal guardian, where any of the following conditions exist:
- (a) (Continued)

(b) (Continued)

(c) The provider did not have knowledge of, and did not contribute to, the cause of the overpayments.

.124 For overpayments described in Section 45-304.123, the county may request ~~that the provider voluntarily return an overpayment, provided that~~ when the county informs the provider that ~~the provider has~~ they have no legal or other obligation to return the overpayment, and ~~that~~ failure to return the overpayment will not result in any adverse action against the provider and ~~the~~ any child/children living in the home.

.125 The county shall not pursue collection of overpayments made to an overpaid foster care provider where the cost of the collection exceeds the amount of the overpayment.

(a) Costs which the county shall consider when determining the cost effectiveness to collect are total administrative and personnel costs, legal filing fees, investigative costs, and any other costs which are applicable.

(b) The county shall have a written debt write-off policy approved by the ~~eCounty Board of Supervisors~~ Welfare Director covering situations including, but not limited to:

(1) Where the debtor cannot be located.

(2) Where the debtor is unable to pay.

(3) Where the costs of further overpayment recovery actions will exceed estimated recovery amounts.

(4) Notwithstanding (3), the written policy may include a provision permitting write off of Aan amount not to exceed \$100.

(c) The county shall maintain adequate documentation supporting its decision to write off an overpayment. Adequate documentation shall include, but not be limited to:

(1) A description of all actions, including the dates of those actions that have been taken to recover the overpayment, and the results from those actions.

(2) ~~A description of reasonable steps that could be taken in the future to continue recovery efforts, unless it has been determined and~~

~~documented that the cost of recovery exceeds the collectible amount.~~

(32) The costs and benefits of engaging in these further collection actions.

(43) The basis for the decision to pursue/not pursue collection of the overpayment.

(54) The date when recovery actions were terminated on the overpayment.

(65) If Section 45-304.125(b)(4) applies to an overpayment, then adequate documentation shall consist of documenting the amount of the overpayment.

.126 The county shall not demand collection of overpayments made to non profit corporations operating group homes or foster family agencies that are no longer in business or licensed by the department.

(a) The county shall not initiate a financial or fiscal audit, or any activity that could lead to the establishment of an overpayment of a group home or foster family agency that is no longer in business or licensed by the department, without prior written approval of the department. This provision does not apply to fiscal or financial audits instituted by law enforcement activities under agencies as defined in the Penal Code.

(b) The county shall not take any action in furtherance of an existing financial or fiscal audit, or any activity that could lead to the establishment of an overpayment of a group home or a foster family agency that is no longer in business or licensed by the department, without prior written approval of the department. This provision does not apply to fiscal or financial audits instituted by law enforcement activities under agencies as defined in the Penal Code.

.127 Nothing in Sections 45-304.122, .123 or .124 prevents counties from collecting an overpayment which results from the payment of aid paid pending.

.2 Investigations of Overpayments

.21 When information indicates that an overpayment may have occurred, the county shall take the following actions: (Continued)

.212 Calculate the amount of the overpayment;

.213 Determine whether any of the factors in Section 45-304.123 or .124 preclude overpayment recovery. If none of the factors in Section 45-304.123 or .124 preclude recovery then:

- (a) Determine from whom the overpayment may be recovered (see Section 45-304.3);
- (b) Comply with the requirements in Section 45-305.
- (c) The county may seek voluntary collection consistent with Section 45-305.231.

.214 If after performing the actions required under Section 45-305, full recovery of the overpayment is not achieved, then the county shall determine whether to pursue collection of the overpayment as specified in Section 45-304.125.

.3 Overpayment Recoupment (Continued)

.32 (Continued)

HANDBOOK BEGINS HERE

Section 45-304.32 does not prohibit those overpayment collection procedures detailed in Section 45-305.22 or .23.

HANDBOOK ENDS HERE

.33 For recoupment of overpayments made to group homes and foster family agencies, ~~an offset to the administrative portion of any subsequent payments shall be used to recover the amount of the overpayment~~ the counties shall reduce any subsequent payments by an amount equal to the amount of the administrative portion of the monthly payment to the provider. See Section 45-305 for offset methodology.

.4 Limitations on Recoupment of Overpayments

.41 A county shall not collect interest on the repayment of an overpayment unless Section 45-305.33 applies.

.42 A county shall not initiate overpayment recovery after one year from the date the county discovers the overpayment.

.421 ~~The county shall continue to recover an overpayment after one year from the date the county discovers the overpayment where the overpayment recovery was initiated within one year of the date the county discovered the overpayment.~~
When the overpayment recovery was initiated within one year of the date the county discovered the overpayment, the county shall continue to recover the

overpayment until fully recovered or written off pursuant under the county's write off policy.

HANDBOOK BEGINS HERE

The initial discovery of the overpayment may occur more than a year after the actual overpayment occurred and recovery shall be sought unless prohibited by Section 45-304.123. The date of discovery is controlling, not the date of the actual overpayment.

HANDBOOK ENDS HERE

.422 This section does not prohibit the county from entering into voluntary or involuntary repayment schedules which last longer than a year from the date of the initial discovery of the overpayment.

.423 (Continued)

.5 County Identification and Remittance of Overpayments (See Section 45-304.12)

.51 If the overpaid provider does not request a review of the county overpayment determination, the overpayment shall be identified two (2) days after the date the overpaid provider's time frame to request a review has elapsed.

.52 If the overpaid provider requests review of the county's overpayment determination (under Section 45-306), the date the overpayment is identified shall be the date the overpaid provider exhausts administrative due process (under Section 45-306).

.53 The county shall, no later than 20 calendar days after the end of the month in which the overpayment was identified, make an aid claim adjustment in an amount equal to 60 percent of the federal share of the overpayment amount for all overpayments identified other than overpayments specified in Sections 45-304.122, .123 and .124.

.54 The county shall not be required to remit the federal share of any overpayment that is uncollectible pursuant to statute or court order, as specified below:

.541 Overpayments which are uncollectible under Section 45-304.123.

~~.542 Overpayments which are uncollectible by operation of Section 45-304.125(b)(4).~~

.543~~2~~ Overpayments which are uncollectible under Section 45-304.125, provided that the county maintains adequate documentation as described in Section 45-304.125(c).

~~544 Overpayments which are uncollectible under Section 45-304.126, provided that the county complies with Section 45-304.126(a) and (b).~~

.55 The county shall report to the department all identified legally uncollectible overpayments and uncollected overpayments due to operation of Sections 45-304.123, .124 and .125 on a monthly basis.

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Senate Bill 84, Chapter 177, Statutes of 2007, Sections 32 and 33.

Reference: Sections 11466.23, 11466.235, and 11466.24, Welfare and Institutions Code; Section 338 Code of Civil Procedure; Section 472(a)(1), Social Security Act.

Amend Section 44-305 to read:

Emergency Filing: Amend Sections 44-305.211, .212, .213, .231(d) (Handbook), .241(e) (Handbook), and .331(a) and (b) to read:

Post-hearing: Amend Sections 45-305.1, .241(d), and .331 to read:

45-305 COLLECTIBLE AFDC-FC OVERPAYMENTS FOR FOSTER CARE PROVIDERS; METHODS OF OVERPAYMENT RECOVERY 45-305

- .1 Using the ~~Statewide-developed~~ Notice of Action form NA 1261 (6/09), which is incorporated by reference, the county shall inform the provider of the overpayment and inform the provider that he or she is required to repay the overpayment. This form shall not be used in connection with an overpayment that the provider has no legal obligation to repay. The ~~Statewide-developed~~ Notice of Action form NA 1261 shall notify the provider of:
 - .11 The amount of the overpayment calculated by month;
 - .12 The date or dates the overpayment was made, and the date the overpayment was discovered by the county;
 - .13 The program in which the overpayment was made, and the reason or cause for the overpayment;
 - .14 Voluntary Repayment Options and Procedures, including voluntary grant offset;
 - .15 Involuntary Repayment procedures and related consequences if voluntary repayment is not agreed to or entered into;
 - .16 The provider's right and time frame to request an informal hearing pursuant to MPP Section 45-306; and
 - .17 The provider's right and time frame to request a State hearing pursuant to MPP Division 20.
- .2 Voluntary Repayment Procedures
 - .21 A provider may voluntarily agree to repay an assessed overpayment in the following order of priority:
 - .211 Voluntary Lump Sum Repayment, MPP Section 45-305.22.
 - .212 Voluntary Repayment Agreement, MPP Section 45-305.23.
 - .213 Voluntary Grant Offset, MPP Section 45-305-24.

.22 Voluntary Lump Sum Repayment

- .221 A provider may voluntarily repay an assessed overpayment by making a lump sum payment to the county on or before the date the provider and county have agreed repayment would be received.

.23 Voluntary Repayment Agreement

- .231 If a provider agrees to voluntarily repay the assessed overpayment, the county and the provider shall sign a written repayment agreement that includes the amount of the overpayment, the terms of repayment, including the repayment schedule, and the consequences for failure to comply with the terms of the voluntary repayment agreement.

- (a) The agreement shall provide that the provider has sufficient funds to provide adequate care and supervision to all children in care after payment.
- (b) The agreement shall provide that during the period the agreement is in effect it is the responsibility of the provider to timely inform the county of circumstances under which continued payment under the voluntary repayment agreement may result in insufficient funds to provide adequate care and supervision to all children in care.
- (c) Consequences for failure to comply with the terms of the voluntary repayment agreement may include, but are not limited to, restrictions on current and future placements, involuntary repayment, and monetary damages that relate to increased administrative costs incurred by the county due to the provider's non-compliance.
- (d) The agreement shall provide that by agreeing to a voluntary repayment the provider is waiving rights to appeal the overpayment determination and the amount of the overpayment, pursuant to MPP Section 22-003.15.

HANDBOOK BEGINS HERE

MPP Section 22-003.15 provides:

"There is no right to a state hearing regarding overpayments made to foster care providers including group homes and foster family agencies where the claimant entered into a voluntary repayment agreement, or where the county requested voluntary repayment under MPP Section 45-305.231."

HANDBOOK ENDS HERE

- (e) The agreement can be amended only by written consent of both parties.

.24 Voluntary Grant Offset

.241 If the provider agrees to a voluntary grant offset, the provider and the county shall sign a written voluntary grant offset agreement that includes the amount of the overpayment, the amount to be offset, and the duration of the offset.

- (a) The agreement shall provide that the provider has sufficient funds to provide adequate care and supervision to all children in care after deduction of grant offset.
- (b) The amount deducted from the child's current grant be no more than 10 percent of the child's total grant.

HANDBOOK BEGINS HERE

Example: Provider Jones has three foster children in her home, Jenny, Johnny, and Joe. An overpayment in the amount of \$400 is assessed for Joe. Joe's monthly payment is \$408. The provider agrees to a voluntary grant offset. \$40 is subtracted from Joe's monthly payment, for a total monthly payment of \$368, for 10 months. Neither Jenny nor Johnny's payments are reduced.

	\$408 (monthly grant)
x	.10% (maximum)
	\$40 (amount to be deducted from monthly grant)
	\$408 (monthly grant)
-	\$ 40
	\$368 (new monthly grant for 10 months)

HANDBOOK ENDS HERE

- (c) Voluntary grant offset may be applied only to the grant of a child for whom the overpayment was assessed. If the provider agrees to a grant offset, at no time shall any amount be deducted from the grant of a child other than the child for whom the overpayment was assessed.

HANDBOOK BEGINS HERE

Example: Provider Jones has three foster children in her home, Jenny, Johnny, and Joe. An overpayment in the amount of \$400 is

assessed for Fred who had lived in Provider Jones' house last month. Grant adjustment is not available.

HANDBOOK ENDS HERE

- (d) The offset agreement shall provide that during the period the offset is in effect it is the responsibility of the provider to timely inform the county of circumstances under which continued payment offset may result in insufficient funds to provide adequate care and supervision to all children in care.
- (e) The agreement shall provide that by agreeing to a voluntary grant offset the provider is waiving rights to appeal the overpayment determination and the amount of the overpayment, pursuant to MPP Section 22-003.15.

HANDBOOK BEGINS HERE

MPP Section 22-003.15 provides:

"There is no right to a state hearing regarding overpayments made to foster care providers including group homes and foster family agencies where the claimant entered into a voluntary repayment agreement, or where the county requested voluntary repayment under MPP Section 45-305.231."

HANDBOOK ENDS HERE

- (f) The agreement can be amended only by written consent of both parties.

.3 Involuntary Repayment Procedures

- .31 Involuntary repayment procedures shall only be used when a provider has refused to enter a voluntary repayment agreement or has failed to comply with the terms of a voluntary repayment agreement that is based on a legally collectible overpayment.

.32 Grant Adjustments

- .321 Grant adjustments shall only be used where the provider is still providing foster care services to the child for whom the overpayment was assessed. An involuntary grant offset is not available where the provider is only providing services to a different foster child(ren) than the child for whom the overpayment was assessed.

- (a) If the overpayment is to be recovered by grant adjustment, the county shall deduct no more than 10 percent of the total grant amount each month.

HANDBOOK BEGINS HERE

Example: Provider Jones has three foster children in her home, Jenny, Johnny and Joe. An overpayment in the amount of \$400 is assessed for Joe. Joe's monthly payment is \$408. The provider refuses to enter into a voluntary repayment agreement; the county institutes an involuntary grant adjustment. \$40 is subtracted from Joe's monthly payment, for a total monthly payment of \$368. For 10 months. Neither Jenny nor Johnny's payments are reduced.

$$\begin{array}{r} \$408 \text{ (monthly grant)} \\ \times \quad .10\% \text{ (maximum)} \\ \hline \$ 40 \text{ (amount to be deducted from monthly grant)} \\ \\ \$408 \text{ (monthly grant)} \\ - \quad \$ 40 \\ \hline \$368 \text{ (new monthly grant for 10 months)} \end{array}$$

HANDBOOK ENDS HERE

- (b) At no time shall any amount be deducted from the grant of a child other than the child for whom the overpayment was assessed.

HANDBOOK BEGINS HERE

Example: Provider Jones has three foster children in her home, Jenny, Johnny and Joe. An overpayment in the amount of \$400 is assessed for Fred who had lived in provider Jones' house last month. Grant adjustment is not available.

HANDBOOK ENDS HERE

- (c) The county shall reduce the grant adjustment amount if the county determines that the reduction is necessary to ensure that sufficient funds exist to provide adequate care and supervision to all children in care after the deduction.
- (d) The grant adjustment shall provide that during the period the offset is in effect it is the responsibility of the provider to timely inform the county of circumstances under which continued payment offset may result in insufficient funds to provide adequate care and supervision to all children in care.

.331 The county shall collect interest on overpayments in circumstances in which the overpaid provider has either failed to enter into a voluntary repayment agreement, or has failed to comply with the terms of a voluntary overpayment agreement, unless:

(a) An overpayment was made to a foster family home, an approved home of a relative, an approved home of a nonrelative extended family member, or an approved home of a nonrelative legal guardian, for any period of time in which the foster child was not cared for in that home and none of the following conditions existed:

(1) The child was temporarily absent from the home and payment was made to the provider to meet the child's needs; or

(2) The overpayment was exclusively the result of county administrative error; or

(3) The provider did not have knowledge of, and did not contribute to the cause of the overpayment.

(b) Interest collection would cause a financial hardship for the provider to provide adequate care and supervision to all children in care.

.332 The amount of interest shall be calculated in accordance with Welfare and Institutions Code Section 11466.22(d)(4).

.34 Unless otherwise provided for in this section, the county shall collect group home provider and foster family agency overpayments in accordance with the procedures established for group home overpayments pursuant to MPP Section 11-402.66. For purpose of this section, the term "county" shall be substituted for the word "department" wherever that term appears in MPP Section 11-402.66.

.35 Civil Judgment

If the provider has failed to comply with a voluntary repayment agreement, a demand for repayment, and a grant offset is not available as the provider is no longer providing services to the child for whom the overpayment was assessed, the county shall, unless the costs exceed the amount of the overpayment:

.351 Refer the case to the appropriate county official for action on a civil judgment.

.352 Record an abstract of civil judgment pursuant to Section 674, Code of Civil Procedure, in any county in which the provider or former provider owns real property.

- .353 Take all appropriate actions pursuant to Section 681 et seq., Code of Civil Procedure, to execute the judgment.
- .354 If the county does not pursue civil judgment because the cost for the above described actions exceed the amount of the overpayment, the county shall comply with the documentation requirements set forth in MPP Section 45-304.125(c).

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Senate Bill 84, Chapter 177, Statutes of 2007, Sections 32 and 33.

Reference: Sections 11466.23, 11466.235, and 11466.24, Welfare and Institutions Code.

Amend Section 45-306 to read:

Emergency Filing: Amend Section 45-306.27 (Handbook) to read:

Post-Hearing: Amend Sections 45-306.23, .27 (Handbook), and .3 (Handbook) to read:

45-306 INFORMAL AND FORMAL HEARING PROCEDURES

45-306

This section applies only to the appeal rights of providers subject to a collectible overpayment assessment pursuant to Section 45-304 and Section 45-305. This informal and formal hearing processes are not available to providers, who have entered into a voluntary repayment agreement, to contest the overpayment determination or the overpayment amount.

- .1 The informal hearing process shall not preclude the provider's right to a state hearing.
- .2 Counties shall provide informal hearings in accordance with the following procedures:
 - .21 Counties must provide written notice to the provider of the availability of an informal hearing process when the county notifies the provider of the overpayment. The county shall send the Statewide form NA 1261 (6/09), to the provider.
 - .22 An informal hearing shall be provided by the CWD to the provider only when the provider has requested an informal hearing no later than 30 calendar days after the Statewide form NA 1261 was mailed by the county to the provider.
 - .23 The informal hearing shall be conducted by an ~~employee person~~ designated by the county ~~welfare department director~~. The designated employee person shall be knowledgeable in the subject area, and shall not be the person who made the initial overpayment determination.
 - .24 The informal hearing shall be held in an office or facility of the CWD. If agreed upon by the provider and the county, the informal hearing may be held elsewhere or conducted by telephone. (Continued)
 - .26 The informal hearing shall be limited to consideration of the correctness of the initial overpayment determination and whether any of the factors in Section 45-304.123 bar recovery. The county may also discuss the methods of overpayment recovery with the provider and attempt to enter into a voluntary repayment agreement, where appropriate.
 - .27 After the hearing, the county employee who conducted the informal hearing shall prepare a letter which contains the decision on each issue considered at the informal hearing, and identification of the regulations which support the written decision and mail the letter to the provider. The letter must inform the provider that he or she can appeal the informal hearing decision at a formal state hearing.

HANDBOOK BEGINS HERE

Example: Through ~~implementation~~ application of procedures identified in Section 45-304.1, the county determines an overpayment was made to a group home provider on January 2nd. The county implements procedures identified in Section 45-304.2 and proceeds to Section 45-305 for collection procedures.

The county provides written notification to the provider of the overpayment in accordance with Section 45-305.1. **Hearing procedures identified in Section 45-306 only apply to the appeal rights of providers subject to collectible overpayment assessments pursuant to Section 45-304 and Section 45-305.**

The county provides appeal rights at the time the county notifies the provider of the overpayment. The provider may or may not request an informal hearing within 30 calendar days of the date the notice to the provider was mailed.

If the provider does not request an informal hearing within 30 calendar days of the date the notice to the provider was mailed, the overpayment determination is sustained upon the 91st day, and therefore identified and the federal share of the overpayment must be repaid by the county, as identified in Section 45-304.53.

If the provider requests an informal hearing within 30 calendar days of the date the notice to the provider was mailed, the county must mail or deliver to the provider a written notice of the time and place of the informal hearing. The hearing shall be conducted in accordance with Sections 45-306.23, .24, .26, and .27.

~~Example: Overpayment discovered on January 2nd; notice to provider mailed on January 3rd; the county receives a request for an informal hearing from the provider on January 14th; the county schedules the informal hearing for January 31st; the county mails the informal hearing date and time to the provider on or before January 23rd.~~

HANDBOOK ENDS HERE

- .3 If a provider requests an informal hearing, the 90-day period to request a formal hearing under MPP Section 22-009.11 shall be suspended. The 90-day period to request a formal hearing shall start when the county issues an informal hearing decision, or when the provider either withdraws their request for the informal hearing, or fails to appear for the informal hearing, whichever occurs first.

HANDBOOK BEGINS HERE

Example #1: ~~A provider requests an informal hearing therefore the 90-day period to request a formal hearing is suspended.~~

Example #21: A provider requests and receives an informal hearing. The county provides a written decision mailed to the provider as identified in Section 45-306.27. The provider has a right to request a formal hearing of the written decision within 90 days of the date the decision letter was mailed.

Informal hearing held on January 31st. County prepares a letter identifying the decisions on each issue considered at the informal hearing in accordance with Section 45-306.27 and mails the decision letter on February 8th. The provider receives the letter and has 90 days from February 8th to request a formal hearing. The county must receive a request for a formal hearing from the provider no later than May 7th.

Example #32: A provider requests an informal hearing and subsequently withdraws the request for the informal hearing. The date the provider withdraws the request for the informal hearing begins the 90-day period to request a formal hearing.

The provider was scheduled for an informal hearing on January 31st. The provider withdrew the request for an informal hearing on January 28th. The county must receive a request for a formal hearing from the provider no later than April 26th.

Example #43: A provider requests an informal hearing and fails to appear on the scheduled date and time. The date the provider fails to appear for the scheduled informal hearing begins the 90-day period to request a formal hearing.

The hearing is scheduled for January 31st and the date and time provider's notice is mailed ~~no later than~~ 7 days prior to the hearing by the county. The provider fails to appear for the informal hearing. The county must receive a request for a formal hearing from the provider no later than April 29th.

HANDBOOK ENDS HERE

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Senate Bill 84, Chapter 177, Statutes of 2007, Section 33.

Reference: Sections 11466.235 and 11466.24, Welfare and Institutions Code.

NOTICE OF ACTION

COUNTY OF _____

STATE OF CALIFORNIA
HEALTH AND HUMAN SERVICES AGENCY
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

Notice Date: _____
Case Name: _____
Worker Number: _____
Worker Name: _____
Case Number: _____
Telephone: _____
Address: _____

(ADDRESSEE)

Questions? Ask your Worker.

This is to inform you that you were overpaid AFDC-Foster Care benefits for _____ for

(NAME OF CHILD)

the period of _____ to _____.

(MM/DD/YYYY)

(MM/DD/YYYY)

Reason for the overpayment:

- Child left your facility/home on _____ and you were not entitled to payments for him/her on or after this date; or
- The child's parents resided in your home during the period of time for which you were paid; or
- Other: _____

Total amount you received: \$ _____

Total amount you should have received: \$ _____

Total amount of Overpayment: \$ _____

Date of Discovery: _____

You are required to repay the overpayment amount of \$ _____.

Please pay by check or money order, made payable to:

Send to

If you disagree with the overpayment or the amount of the overpayment, please see reverse for hearing instructions.

If you agree with the overpayment amount you must do one of the following within 90 calendar days from the day the county gave or mailed you this notice:

- Make a one time payment of the total amount;
- Reach an arrangement with the county for a written repayment agreement or a written voluntary grant offset.

If you fail to repay your overpayment in lump sum or enter into a voluntary repayment agreement, you will be subject to an involuntary repayment of the overpaid amount.

If you have any questions regarding the overpayment computation or repayment arrangements, please contact the worker at the top of this form.

Regulations cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 11466.24. EAS Section 45-304, 45-305, 45-306 and 22-009.

YOUR HEARING RIGHTS

You have the right to ask for a hearing if you disagree with any county action. You have only 90 days to ask for a hearing. The 90 days started the day after the county gave or mailed you this notice.

State Hearing: If you think this action is wrong, you can ask for a hearing. Your benefits may not be changed if you ask for a hearing before this action takes place.

To request a Hearing:

If you think this action is wrong, you can ask for either an informal hearing provided by the County or a formal State hearing. Your benefits may not be changed if you ask for a hearing before this action takes place.

In order to request an informal hearing, your request must be made no later than 30 calendar days after this notice was mailed to you. You may send your request by any of the following methods.

In writing:

Email requests:

Address

Phone requests:

Address

Your request should state why you want the informal hearing and if you will need a free interpreter. If so, please indicate what language or dialect you speak.

You may appeal the informal hearing decision at a formal State hearing. You may request the formal State hearing within 90 calendar days after the informal hearing decision is mailed to you. If the informal hearing is requested but not held, the 90 days will begin 31 calendar days from the date of this notice.

If you choose a formal State hearing, please note that you must request that State hearing within 90 calendar days of the receipt of this notice.

If you have any questions, contact the worker at the top of this form.

TDD - For Hearing Impaired

TO ASK FOR A HEARING:

- Fill out this page.
- Make a copy of the front and back of this page for your records. If you ask, your worker will get you a copy of this page.
- Send or take this page to:

OR

- Call toll free: 1-800-952-5253 or for hearing or speech impaired who use TDD, 1-800-952-8349.

To Get Help: You can ask about your hearing rights or for a legal aid referral at the toll-free state phone numbers listed above. You may get free legal help at your local legal aid or welfare rights office.

If you do not want to go to the hearing alone, you can bring a friend or someone with you.

HEARING REQUEST

I want a hearing due to an action by the Welfare Department of _____ County about my:

☐ Overpayment _____

Here's Why: _____

☐ If you need more space, check here and add a page.

☐ I need the state to provide me with an interpreter at no cost to me. (A relative or friend cannot interpret for you at the hearing.)

My language or dialect is: _____

NAME OF PERSON WHOSE BENEFITS WERE DENIED, CHANGED OR STOPPED

BIRTH DATE

PHONE NUMBER

STREET ADDRESS

CITY

STATE

ZIP CODE

SIGNATURE

DATE

NAME OF PERSON COMPLETING THIS FORM

PHONE NUMBER

☐ I want the person named below to represent me at this hearing. I give my permission for this person to see my records or go to the hearing for me. (This person can be a friend or relative but cannot interpret for you.)

NAME

PHONE NUMBER

STREET ADDRESS

CITY

STATE

ZIP CODE

REGULAR
NOTICE PUBLICATION/REGULATIONS SUBMISSION(See instructions on
reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2009-0720-01	REGULATORY ACTION NUMBER 2010-0405-02 S	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

2010 APR -5 PM 3:06

OFFICE OF
ADMINISTRATIVE LAW

FILED

In the office of the Secretary of State
of the State of California

MAY 17 2010

At 4:34 O'Clock P M.
DEBRA BOWEN, Secretary of State
By *J. L. Martinez*
Deputy Secretary of State

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY

Department of Social Services

AGENCY FILE NUMBER (If any)

ORD# 0209-02

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE AB 1808 Homelessness Eligibility Requirements		TITLE(S)		FIRST SECTION AFFECTED		2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE ☐ Notice re Proposed ☐ Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER		FAX NUMBER (Optional)	
OAL USE ONLY		ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn		NOTICE REGISTER NUMBER 2009, #31-2		PUBLICATION DATE 7-31-2009	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S)	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
------------------------------	--

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND 44-211
	REPEAL
TITLE(S) MPP	

3. TYPE OF FILING

☒ Regular Rulemaking (Gov. Code §11346)	☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	☐ Emergency Readopt (Gov. Code, §11346.1(h))	☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4)	☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	☐ File & Print	☐ Print Only
☐ Emergency (Gov. Code, §11346.1(b))	☐ Other (Specify)		

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs., title 1, §44 and Gov. Code §11347.1)

February 5, 2010 to February 22, 2010

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

☒ Effective 30th day after filing with Secretary of State	☐ Effective on filing with Secretary of State	☐ §100 Changes Without Regulatory Effect	☐ Effective other (Specify)
---	--	---	--

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☒ Department of Finance (Form STD. 399) (SAM §6660)	☐ Fair Political Practices Commission	☐ State Fire Marshal
☐ Other (Specify)		

7. CONTACT PERSON Zaid Dominguez, Manager	TELEPHONE NUMBER (916) 657-2586	FAX NUMBER (Optional) (916) 654-3286	E-MAIL ADDRESS (Optional) zdominguez@dss.ca.gov
--	------------------------------------	---	--

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Robert L. Garcia</i>	DATE 3/26/2010
TYPED NAME AND TITLE OF SIGNATORY Robert L. Garcia, Chief Deputy Director	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

MAY 17 2010

Office of Administrative Law

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 01-09) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

Use the form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the name of the agency with the rulemaking authority and agency's file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations and the statement of reasons. Upon receipt of the notice, OAL will place a number in the box marked "Notice File Number." If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Gov. Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the OAL file number(s) of all previously disapproved or withdrawn filings in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). Submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Gov. Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Gov. Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A and insert the OAL file number(s) for the original emergency filing(s) in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B, including the signed certification, on the form that was previously submitted with the notice. If a new STD. 400 is used, fill in Part B including the signed certification, and enter the previously assigned notice file number in the box marked "Notice File Number" at the top of the form. The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for re adoption, use a new STD. 400 and fill out Part B, including the signed certification, and insert the OAL file number(s) related to the original emergency filing in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B).

CHANGES WITHOUT REGULATORY EFFECT

When submitting changes without regulatory effect pursuant to California Code of Regulations, Title 1, section 100, complete Part B, including marking the appropriate box in both B.3. and B.5.

ABBREVIATIONS

Cal. Code Regs. - California Code of Regulations
Gov. Code - Government Code
SAM - State Administrative Manual

For questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law Reference Attorney at (916) 323-6815.

Amend Section 44-211 to read:

44-211 SPECIAL NEEDS IN CALWORKS (Continued)

44-211

.5 Homeless Assistance

.51 General

A homeless AU seeking permanent housing is eligible to receive homeless assistance. Homeless assistance is available to meet the reasonable costs of securing permanent housing, preventing eviction and meeting ~~is also available to meet the~~ costs of temporary shelter while the AU is seeking permanent housing. Any AU applying for homeless assistance shall be informed that these benefits are limited to once-in-a-lifetime, with exceptions (see Sections 44-211.514 and .54). Further, the AU shall be informed that the temporary shelter payment of up to 16 consecutive days is only available during this period and that once this period ends, these benefits are exhausted, even if the AU has not received all 16 days of temporary shelter payments.(Continued)

.511 (Continued)

- (c) It is residing in a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation of human beings; or
- (d) ~~And it~~ has a need for housing in a commercial establishment, shelter, publicly-funded transitional housing, or from a person in the business of renting properties who has a history of renting properties; or
- (e) It receives a pay rent or quit notice. (Continued)

.512 (Continued)

.525 (Continued)

- (a) (Continued)

HANDBOOK BEGINS HERE

- (1) Effective ~~July 22, 1999~~ July 12, 2006, the amount is \$4065.

HANDBOOK ENDS HERE

- (b) (Continued)

HANDBOOK BEGINS HERE

- (2) Effective ~~July 22, 1999~~ July 12, 2006, the amount for the fifth and each additional member of an AU shall be ~~\$10.00~~ \$15.00, for a maximum of \$125 a day.

HANDBOOK ENDS HERE

.526 (Continued)

- (a) (Continued)

HANDBOOK BEGINS HERE

- (1) Example:

The AU receives three days of temporary shelter assistance in the amount of ~~\$120~~ \$195. On the fourth day, the AU returns to the CWD for an extension of benefits. The AU provides a receipt that shows payment was made on two nights at XYZ Motel in the amount of \$75. The AU provides a receipt that shows on the third night the AU stayed with a friend who is not in the business of providing shelter and paid the friend \$15. The county determines that the third night the AU failed to pay a provider in accordance with this requirement. The county establishes that mismanagement of funds exists and the subsequent payment is made as a restricted payment.

- (2) Example:

The AU receives three nights of temporary shelter in the amount of ~~\$120~~ \$195. The AU returns on the fourth day to request an extension of benefits. The AU provides a receipt that shows the AU stayed in a shelter three nights at a cost of \$15. The AU has met the requirement of staying in a commercial establishment.

- (3) Example:

The AU receives ~~\$120~~ \$195 for three nights of shelter. The AU returns on the fourth night for an extension of benefits. The AU provides verification that shows ~~\$130~~ \$205 was spent on two nights of shelter at the XYZ Motel. The third night the AU stayed with a friend at no cost. The AU has met the requirement of staying in a commercial establishment.

HANDBOOK ENDS HERE

.53 Permanent Housing

The once-in-a-lifetime permanent housing payments, with exceptions (see Section 44-211.541), is available to assist homeless recipient AUs in obtaining or retaining permanent housing.

.531 Permanent housing payments are available to:

- (a) Help homeless families secure a permanent residence; or
- (b) Pay up to two months of rent arrearages to prevent eviction. Each month of the rent arrearage payment shall not exceed 80 percent of the Total Monthly Household Income (TMHI), as defined in Section 44-211.534(b) and without special needs.

~~.531.~~532 A nonrecurring special need payment for permanent housing assistance to secure a permanent residence shall be made only to AUs presenting evidence that the AU has found permanent housing which does not rent for more than 80 percent of the AU's ~~MAP~~TMHI, without special needs, for an AU of that size.

- (a) If the CWD determines that an AU intends to share housing costs, and the AU's share of the total housing costs does not exceed 80 percent of its ~~MAP~~TMHI, Section 44-211.532 above shall not apply.
- (b) (Continued)
 - (3) An AU residing with unaided person(s) providing that the AU's share does not exceed 80 percent of the ~~MAP~~TMHI.

.533 A nonrecurring special need payment for Permanent Housing Assistance to prevent eviction shall be made to AU's when payment of arrearages will prevent the AU from being evicted.

- (a) In order to be eligible for Permanent HA arrearage payments, the AU must also meet all of the following conditions:
 - (1) The AU must provide proof of a proposed or pending eviction such as "notice to pay rent or quit" or court eviction papers;
 - (2) The AU must provide proof to the CWD that the eviction is a result of financial hardship and not for other lease or rental violations;
 - (3) The financial hardship must have been caused by extraordinary circumstances beyond the AU's control;

- (4) The financial hardship resulting in the AU's eviction must also render the AU homeless in accordance with MPP Section 44-211.511.
- (b) It is the county's responsibility to determine what constitutes a "financial hardship resulting from extraordinary circumstances beyond the AU's control" and this determination must be made after a careful assessment of the unique facts presented in each case.

HANDBOOK BEGINS HERE

- (1) Examples of expenses that might cause the AU to experience financial hardship include, but are not limited to:
- High hospital bills or medical expenses not covered by Medi-Cal.
 - Car repairs.
 - Funeral expenses.
 - Cost required traveling to visit an ill or dying relative or to attend a funeral.
 - High utility bills resulting from unforeseen circumstances, such as weather extremes or repair problems.
 - Loss of wages due to illness of self or family members or temporary unemployment.
- (2) Example of reasons that might cause financial hardship for an AU that would not be considered a result of extraordinary circumstances beyond the AU's control include, but are not limited to:
- Loss of income due to purchase of non-essential household goods, gambling debts, parties, or vacations.
 - Failure to budget appropriately such as overspending on items not related to family need or mismanagement of household funds.
 - Normal occurring credit card expenses, not related to unusual or unanticipated expenses.

HANDBOOK ENDS HERE

- (c) The county shall pay up to two months of an AU's rent arrearage, provided each month's arrearage amount does not exceed 80 percent of the AU's TMHI without special needs.
- (d) If the CWD determines that the AU that is being evicted has been sharing housing costs as described in 44-211.532(b), the county shall pay only the eligible AU's share of the rent arrearages.
- (e) The CWD must ensure that payment of the Permanent HA arrearages in a shared housing situation will prevent eviction. If making these arrearage payments would not prevent eviction the CWD shall not approve permanent HA arrearage payments.

.534 Definitions

- (a) "Income" means income to be counted towards the TMHI which includes gross earned and unearned income, including the CalWORKs computed grant, CalWORKs Special Need payments, or Supplemental Security Income (SSI) and State Supplementary Payment (SSP). An AU's Food Stamp benefits do not count as income and are not included in the TMHI.
- (b) "Total Monthly Household Income" means income that can be used to determine eligibility for Permanent HA. Counties must count the income of the AU members and of any other persons whose income is currently used in calculating the AU's grant, including but not limited to sanctioned and penalized household members and persons who are excluded by law due to their undocumented non-citizen or drug/fleeing felon status.
 - (1) When an AU has asked to add a new person to their AU mid-quarter, any income of that person shall be included in the TMHI used to determine eligibility for and amount of Permanent HA, regardless of when the county will be increasing the AU size as a result of adding the new person.
 - (2) If the AU has reported that an AU member has left the home mid-Quarter, and that person's income will no longer be available to help the AU pay rent, that person's income shall not be included as part of the AU's TMHI for Permanent HA.
 - (3) If an SSI/SSP recipient living in the home contributes toward the monthly rent, the family's total monthly rent amount to which the 80 percent standard is applied shall be reduced by the amount contributed by the SSI/SSP recipient.

- (b) That portion of the security deposit payment, available for last month's rent shall not exceed 80 percent of the AU's ~~MAP~~TMHI, without special needs, for an AU of that size. (Continued)

~~.533.~~536 The payment for permanent housing costs may include the actual costs of utility deposits in addition to the amount allowable for security deposits described in MPP 44-211.~~532~~535.

~~.534.~~537 (Continued)

- (a) A written rental agreement which demonstrates the landlord's intent to rent to the AU at a cost which does not exceed 80 percent of the AU's ~~MAP~~TMHI. (Continued)

~~.535.~~538 (Continued)

~~.536.~~539 (Continued)

Authority Cited: Sections 10553, 10554, 10604, 11209, and 11450(g), Welfare and Institutions Code.

Reference: Sections 11056, 11265.1, 11265.2, 11265.3, 11266(a)(2), 11271, 11272, 11273, and 11273(b), 11450(a)(1), (b), and (c), 11450(f)(2)(A)(i), 11450(f)(2)(B); 11450(f)(2)(C), 11450(f)(2)(E)(i), (ii), (iii), (v), and (vi), 11450.5, 11452.018(a), and 11453.2, Welfare and Institutions Code; 45 CFR 206.10(a)(1)(ii), 45 CFR 206.10(a)(8), 45 CFR 233.10(a)(1)(iv), 45 CFR 233.20(a)(2)(v)(A), 45 CFR 234.11, 45 CFR 234.60, ~~CFR 234.60(a)(2)-(11);~~ and 45 CFR 400.52.

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2010-0506-01EE
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For use by Office of Administrative Law (OAL) only

NOTICE	REGULATIONS
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AGENCY WITH RULEMAKING AUTHORITY
California Department of Social Services

AGENCY FILE NUMBER (If any)
ORD # 0508-03

FILED

In the office of the Secretary of State of the State of California

MAY 17 2010

At 4:30 O'Clock P M.
DEBRA BOWEN, Secretary of State
By Robert L. Garcia
Deputy Secretary of State

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE ☐ Notice re Proposed Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Division 31, Grievance Review Procedures	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2009-0819-02E and 2010-0218-02EE
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 31-021
	AMEND 31-003, 31-410, and 31-501
	REPEAL
TITLE(S) MPP	

3. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code §11346)	☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	☒ Emergency Readopt (Gov. Code, §11346.1(h))	☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	☐ File & Print	☐ Print Only
☐ Emergency (Gov. Code, §11346.1(b))		☐ Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

☐ Effective 30th day after filing with Secretary of State	☐ Effective on filing with Secretary of State	☐ \$100 Changes Without Regulatory Effect	☒ Effective other (Specify) <u>5/28/2010</u>
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☒ Department of Finance (Form STD. 399) (SAM §6660)	☐ Fair Political Practices Commission	☐ State Fire Marshal
☐ Other (Specify) _____		

7. CONTACT PERSON Zaid Dominguez, Manager, ORD	TELEPHONE NUMBER 657-2586	FAX NUMBER (Optional) 654-3286	E-MAIL ADDRESS (Optional)
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <u>Robert L. Garcia</u>	DATE <u>4/20/2010</u>
TYPED NAME AND TITLE OF SIGNATORY ROBERT L. GARCIA, CHIEF DEPUTY DIRECTOR	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

MAY 17 2010

Office of Administrative Law

Amend Section 31-003 to read:

31-003 DEFINITIONS – FORMS (Continued)

31-003

(s) (1) (Continued)

(2) SOC 832 (Rev. 5/08) Notice of Child Abuse Central Index Listing, hereby incorporated by reference, is used for the purpose of notifying individuals that their name has been submitted to the Department of Justice (DOJ) for listing on the Child Abuse Central Index (CACI).

(3) SOC 833 (Rev. 3/08) Grievance Procedures for Challenging Reference to the Child Abuse Central Index, hereby incorporated by reference, is used for the purpose of informing individuals of the requirements for requesting a grievance hearing, as well as providing information regarding timeframes and all required components of a grievance hearing.

(4) SOC 834 (Rev. 6/08) Request for Grievance Hearing, hereby incorporated by reference, is used for the purpose of providing individuals with a mechanism for requesting a grievance hearing to challenge their listing on the CACI.

(t) (Continued)

Authority Cited: Sections 10553, 10554, and 10850.4, Welfare and Institutions Code.

Reference: Gomez v. Saenz Settlement Agreement and Court Order, Case No: BC284896; Section 11169, Penal Code and Sections 827 and 10850.4, Welfare and Institutions Code and 42 USC 5106.

Adopt Section 31-021 to read:

31-021 CHILD ABUSE CENTRAL INDEX (CACI) GRIEVANCE PROCEDURES

31-021

.1 Within five (5) business days of submitting an individual's name to the Department of Justice (DOJ) for listing on the CACI pursuant to Section 31-501.4, the following forms shall be sent to the individual at his/her last known address:

.11 The Notice of Child Abuse Central Index Listing (SOC 832).

.12 Grievance Procedures for Challenging Reference to the Child Abuse Central Index (SOC 833), and

.13 Request for Grievance Hearing (SOC 834).

.2 Request for a Grievance Hearing

.21 The complainant shall send by mail, fax or in person, a completed SOC 834 form, or a written request for grievance hearing that includes all of the information required under Section 31-021.213, signed by the complainant to request a grievance hearing. This must be received by the county within thirty (30) calendar days of the date of notice. Failure to send the completed SOC 834 form or written request within the prescribed timeframe shall constitute a waiver of the right to a grievance hearing.

.211 For purposes of this section, a complainant is deemed aware of the county decision when the county mails the notification as specified in Section 31-021.1 to the complainant's last known address.

.212 For individuals to whom no prior notification was mailed regarding his or her submission to the CACI, the individual shall file the completed SOC 834 form within thirty (30) calendar days of becoming aware that he or she is listed in CACI and becoming aware of the grievance process.

.213 A completed SOC 834 form or a written request for grievance hearing shall include the referral number, name of county, complete contact information, date of birth, a reason for grievance which the complainant believes provides a basis for reversal of the county decision, and if represented, the name of the representative and contact information for the representative.

.214 The county shall assist the complainant in preparation of the request for grievance hearing if assistance is requested.

.3 The following grievance hearing procedures shall only apply for challenges to county submission for listing individuals on the CACI.

- .31 A grievance hearing request shall be denied when a court of competent jurisdiction has determined that the suspected child abuse and/or neglect has occurred, or when the allegation of child abuse and/or neglect resulting in the referral to CACI is pending before the court.
- .311 If Section 31-021.31 no longer applies, a complainant can submit the completed SOC 834 form or written request within thirty (30) calendar days of the conclusion of the judicial matter to request a grievance hearing.
- .312 Timeframes for conducting and completing a grievance hearing will remain as specified in Sections 31-021.4 through .85.
- .4 The grievance hearing shall be scheduled within ten (10) business days and held no later than sixty (60) calendar days from the date the request for grievance is received by the county, unless otherwise agreed to by the complainant and the county.
- .41 Notice of the date, time and place of the grievance hearing shall be mailed by the county to the complainant at least thirty (30) calendar days before the grievance hearing is scheduled, unless otherwise agreed to by the complainant and the county.
- .42 The complainant may have an attorney or other representative present at the hearing to assist him or her.
- .43 Either party may request a continuance of the grievance hearing not to exceed ten (10) business days. Additional continuance or dismissal of the hearing shall be granted with mutual agreement of all parties involved or for good cause.
- .44 The county may resolve a grievance at any point by changing a finding of inconclusive or substantiated child abuse and/or neglect to unfounded and notifying the DOJ of the need to remove the individual's name from the CACI.
- .5 The grievance review officer conducting the grievance hearing shall be:
- .51 A staff or other person not directly involved in the decision, or in the investigation of the action or finding, that is the subject of the grievance hearing.
- .52 Neither a coworker nor a person directly in the chain of supervision of any of the persons involved in the finding, or in the investigation of the action or finding, that is the subject of the grievance hearing unless the grievance review officer is the director or chief deputy director of the county.

- .521 For the purposes of this section, a coworker includes a staff person who has regular direct contact with the staff involved in the finding related to the grievance, and this person is unable to separate themselves as an impartial reviewer.
- .53 A staff or other person who is knowledgeable of the child welfare services field and capable of objectively reviewing case information pertaining to the grievance.
- .6 The grievance review hearing shall be conducted in the following manner:
- .61 The grievance hearing shall, to the extent possible, be conducted in a non-adversarial environment.
- .62 The county, complainant and his or her representatives, if any, shall be permitted to examine all documents and relevant evidence that is not otherwise made confidential by law, which the opposing party intends to introduce at the grievance hearing.
- .621 The county and the complainant shall make available for inspection the documents and other evidence they intend to rely upon at the grievance hearing at least ten (10) business days prior to the hearing, to the extent permitted by law.
- (a) The county shall redact such names and personal identifiers from the documents and evidence as required by law and to protect the identity, health, and safety of those mandated reporters of suspected child abuse and/or neglect pursuant to Penal Code Section 11167. The county may further redact information regarding the mandated reporter's observations of the evidence indicating child abuse and/or neglect.
- .622 The county shall release disclosable information to the complainants' attorney or representative only if the complainant has provided the county with a signed consent to do so.
- .623 Witness lists shall be available for exchange in advance of the hearing. The county and the complainant shall provide a list of witnesses they intend to call at the grievance hearing at least ten (10) business days prior to the grievance hearing.
- .624 Failure to disclose evidence or witness lists in advance of the grievance hearing can constitute grounds for objecting to consideration of the evidence or allowing testimony of a witness during the hearing.
- .63 Each party and their attorney or representative, and witnesses while testifying, shall be the only persons authorized to be present during the grievance hearing unless all parties and the grievance review officer consent to the presence of other persons.

- .64 The information disclosed at the grievance hearing may not be used for any other purpose. No information presented at the grievance hearing shall be disclosed to any person other than those directly involved in the matter. Any documents or other evidence disclosed by the county to the complainant or the complainant's representative shall be returned to the county at the conclusion of the hearing.
- .65 All testimony shall be given under oath or affirmation.
- .66 The grievance review officer has no subpoena power. However, the parties may call witnesses to the hearing and question the witnesses called by the other party.
- .661 The grievance review officer may limit the questioning of the witness to protect the witness from unwarranted embarrassment, oppression, or harassment.
- .662 The grievance review officer may prevent the presence and/or examination of a child at the grievance hearing for good cause, including but not limited to protecting the child from trauma or to protect his or her health, safety, and/or well-being.
- .663 The grievance review officer may permit the testimony and/or presence of a child only if the child's participation in the grievance hearing is voluntary and the child is capable of providing voluntary consent.
- (a) The grievance review officer may interview the child outside the presence of county staff, complainant and/or any other party in order to determine whether the participation of the child is voluntary, or whether good cause exists for preventing the child from being present or testifying at the grievance hearing.
- .67 The county employee(s) who conducted the investigation that is the subject of the grievance hearing shall be present at the hearing if that person is employed by the county and is available to participate in the grievance hearing.
- .671 For purposes of this paragraph, a conflict in work assignments shall not render the county employee who conducted the investigation unavailable to participate in the hearing.
- .68 The county shall first present its evidence supporting its action or findings that are the subject of the grievance. The complainant will then provide evidence supporting his or her claim that the county's decision should be withdrawn or changed. The county shall then be allowed to present rebuttal evidence in further support of its finding. Thereafter, the grievance review officer may, at his or her discretion, allow the parties to submit any additional evidence as may be warranted to fully evaluate the matter under review.

- .681 The grievance review officer shall have the authority to continue to review for a period not to exceed ten (10) calendar days if additional evidence or witnesses are necessary to make a determination on the issue.
- .7 The county shall have the proceedings of the grievance hearing audio recorded as part of the official administrative record. The county shall possess and maintain the administrative record of the grievance hearing.
- .71 The complainant or the complainant's attorney and/or representative shall be entitled to inspect the recording and any transcripts made thereof, however the county shall keep possession of the recording and transcript and its contents will remain under seal.
- .711 Where the complainant seeks to inspect the transcript, the costs for transcribing a recording of the hearing shall be assessed to the complainant.
- .72 The county shall lodge the administrative record with the court if any party seeks judicial review of the final decision of the county director.
- .8 Grievance hearing decisions shall be rendered as follows:
- .81 The grievance review officer shall make a determination based upon the evidence presented at the grievance hearing, whether the allegation of child abuse and/or neglect is unfounded, inconclusive, or substantiated as defined by the Penal Code Section 11165.12.
- .82 The grievance review officer shall render a written recommended decision within thirty (30) calendar days of the completion of the grievance hearing. The decision shall contain a summary statement of facts, the issues involved, findings, and the basis for the decision.
- .83 The county director shall issue a final written decision adopting, rejecting, or modifying the recommended decision within ten (10) business days after the recommended decision is rendered. The final written decision shall explain why a recommended decision was rejected or modified by the county director.
- .84 A copy of the decision shall be sent to the following:
- .841 The complainant that requested the grievance hearing;
- .842 The complainant's attorney or representative, if any; and
- .843 The California Department of Social Services.
- .85 If the complainant chooses to challenge the final decision of the county director, the evidence and information disclosed at the grievance hearing may be part of an administrative record for a writ of mandate and kept confidential. The

administrative record shall be kept confidential, including, if any of the parties request, that it be filed with the court under seal.

- .86 The grievance hearing administrative record shall be retained for a length of time consistent with current law, regulations, or judicial order which governs the retention of the underlying record, but not less than one year from the decision date in any circumstance, and shall include the documents and other information accepted as evidence at the hearing.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Gomez v. Saenz Settlement Agreement and Court Order, Case No: BC284896; Sections 11165.12, 11166(g) and 11167, Penal Code and Sections 827, 10850, and 16503, Welfare and Institutions Code.

Amend Section 31-410 to read:

31-410 TEMPORARY PLACEMENT (Continued)

31-410

- .5 The county welfare department or probation department shall begin an assessment for a relative or nonrelative extended family member, as defined in Welfare and Institutions Code Section 319, who either has requested placement of a child pending the detention hearing or whom the social worker/probation officer has identified as willing to provide care for a child pending the detention hearing.

.51 The assessment shall include, but is not limited to, all of the following: (Continued)

- .514 The results of a Child Abuse Central Index (CACI) check conducted on all persons 18 years of age and older residing in the home.

HANDBOOK BEGINS HERE

- (a) Penal Code Section 11170(b)(5) 11170(c) in summary states that when Child Abuse Central Index information is released by the Department of Justice for temporary placement of a child, the child protective services agency or court investigator is responsible for notifying, in writing, the person listed in the Child Abuse Central Index that he/she is in the index. The notification shall include the name of the reporting agency and the date of the report.
- (b) Penal Code Section 11170(b)(610)(A) in summary requires persons or agencies who receive Child Abuse Central Index information for purposes of licensing, adopting or placing a child to obtain the underlying report from the reporting agency and make their own independent assessment regarding the quality of the evidence disclosed and its sufficiency for making decisions regarding the placement of a child which will be the most appropriate placement and in the best interest of the child.

HANDBOOK ENDS HERE

- .515 A CACI listing does not necessarily preclude placement with a relative or non-related extended family member. Instead, the relative or non-related extended family member may still be entitled to placement upon consideration of all relevant factors. These factors include but are not limited to the following:
- (a) The nature of the substantiated or inconclusive child abuse/neglect report that led to the CACI listing;

- (b) The period of time that has elapsed since the substantiated or inconclusive child abuse/neglect was committed and the number of offenses;
- (c) The circumstances surrounding the commission of the substantiated or inconclusive child abuse/neglect that would demonstrate the likelihood of repetition; and
- (d) Character references.

.52 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code and Assembly Bill 1695, Section 21.

Reference: Sections 309 (as amended by Assembly Bill 1544, Chapter 793, Statutes of 1997), 319 (as amended by Senate Bill 2232, Chapter 1530, Statutes of 1990), 319(d) (as amended by Assembly Bill 1544, Chapter 793, Statutes of 1997), 309, 309(d), 319, 319(f), 361.2(h), 362.7, 727, 11402, and 16507.5(b) (as amended by Assembly Bill 1695, Chapter 653, Statutes of 2001), 361.2(b) and (g), 366(c), 11467.1, and 16501.1(c), Welfare and Institutions Code; Section 1530.8, Health and Safety Code; Sections ~~11170(b)(5), and 11170(b)(6)(A)~~ and 11170(c) (as amended by Senate Bill 644, Chapter 842, Statutes of 1997), Penal Code; and 42 U.S.C. Section 675(1)(A), and Gomez v. Saenz Settlement Agreement and Court Order, Case No: BC284896.

Amend Section 31-501 to read:

CHAPTER 31-500 SPECIAL REQUIREMENTS

31-501 CHILD ABUSE AND NEGLECT REPORTING REQUIREMENTS 31-501

- .1 The county shall report by telephone, fax or electronic submission every known or suspected instance of child abuse and/or neglect as defined in Penal Code Section 11165.6, to law enforcement departments and the District Attorney's Office as specified in Penal Code Section 11166(gj).

HANDBOOK BEGINS HERE

Penal Code Section 11165.6 defines child abuse or neglect to include physical injury or death inflicted by other than accidental means upon a child by another person, sexual abuse as defined in Section 11165.1, neglect as defined in Section 11165.2, the willful harming or injuring of a child or the endangering of the person or health of a child, as defined in Section 11165.3, and unlawful corporal punishment or injury as defined in Section 11165.4. "Child abuse or neglect" does not include a mutual affray between minors. "Child abuse or neglect" does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer.

HANDBOOK ENDS HERE

- .2 When the county receives a report of known or suspected child abuse and/or neglect that has allegedly occurred in a licensed facility, the county shall, as specified in Penal Code Sections 11166.1 and 11166.2, notify the licensing office with jurisdiction over the facility, as specified in Penal Code Sections 11166.1 and 11166.2.
- .3 When the county receives a report of known or suspected child "abuse or neglect in out-of-home care," including a child placed in the home of a relative or non-related extended family member, the county shall create a new referral.
 - .31 The county shall respond to all referrals of "abuse or neglect in out-of-home care" in accordance with the provisions of Section 31-101.
 - .32 A disposition of the investigation shall be recorded in the child's case record.
- .34 The county shall submit a report to the Department of Justice (DOJ) pursuant to Penal Code Section 11169 to the Department of Justice of every case it investigates of known or suspected child abuse that it has determined not to be unfounded to be inconclusive or substantiated as defined in Penal Code Section 11165.2.
 - .41 The county shall not submit a report to the DOJ for referrals it investigates and the only allegation substantiated is general neglect or the only incident is a positive

toxicology screening at the time of delivery, as specified in Penal Code Sections 11165.2(b) and 11165.13.

- .42 The county shall ensure that the report submitted to the DOJ is complete and is in conformity with the California Code of Regulations, Title 11.

HANDBOOK BEGINS HERE

- .421 The California Code of Regulations, Title 11, Standard Reporting Form for Reports of Child Abuse Maintained in the Automated Child Abuse System (ACAS) states:

- (a) The "Child Abuse Summary Report: Form SS 8583 is the standard reporting form required to report investigative summaries of suspected incidents of child abuse and severe neglect to ACAS. Reporting agencies shall submit Form SS 8583 to DOJ after an active investigation has been conducted and the incident has been determined not to be unfounded. Reporting agencies must obtain and use the most recent version of the SS 8583 when submitting the report to DOJ." The SS 8583 form is maintained by DOJ and may be obtained by contacting that department.

HANDBOOK ENDS HERE

- .3143 The county shall make information received from the Department of Justice available as specified in Penal Code Section 11170(b)(1). The county shall make information received from DOJ pursuant to Penal Code Section 11170(b)(1) available to the persons or agencies as specified in that section.
- .5 Within five (5) business days of the county submitting information to the DOJ to list an individual's name on the Child Abuse Central Index (CACI), the county shall provide to that individual written notification, which shall contain the following information and materials:
- .51 The completed SOC 832, as found in Section 31-003(s)(2), notification that the county has completed an investigation of suspected child abuse and/or severe neglect, which the county has determined to be either inconclusive or substantiated, and has submitted the individual's name to the DOJ for listing on the CACI;
- .511 The completed SOC 832 shall include the victim's name, and a brief description of the alleged abuse and/or severe neglect, and the date and location where this occurred;
- .52 The SOC 833, as found in Section 31-003(s)(3), information explaining the individual's right to request a grievance hearing, and the procedures for the hearing;
- .53 The SOC 834, as found in Section 31-003(s)(4), a request for grievance hearing;

- .531 A completed SOC 834 shall include the referral number, name of county, complete contact information, date of birth, reason for grievance, information regarding an attorney or representative for the individual if any, and the address where to submit the request for grievance hearing.
- .54 The SOC 832, 833 and 834 shall be mailed to the last known address where the notice and request for grievance are most likely to be received by the individual.
- .6 An individual wishing to challenge his or her referral to the CACI may request a grievance hearing utilizing the procedures under Section 31-021. The county may initiate an internal review relating to the matter identified in the request prior to the hearing.
- .7 Where the county's finding of inconclusive or substantiated for abuse and/or severe neglect is changed to unfounded as a result of the grievance hearing or internal review, or a judicial determination of factual innocence of all of the investigated allegations that supported the county's decision to refer the individual's name to the DOJ for listing on CACI, the county shall within five business days submit to the DOJ a revised DOJ form SS 8583 containing the change in finding.
- .71 Where the county's finding of inconclusive or substantiated child abuse and/or neglect is changed to a finding other than unfounded as a result of the grievance hearing, the county shall within five business days submit to the DOJ a revised Form SS 8583 containing the change in finding.
- .8 The county shall document the outcome of the grievance hearing and any change in the finding of an allegation, if any, within the child's case record.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Gomez v. Saenz Settlement Agreement and Court Order, Case No: BC284896 and Sections 11165.12, 11165.5, 11165.6, 11166, 11166.1, 11166.2, 11166.3, 11169, and 11170(b)(1), Penal Code.

NOTICE OF CHILD ABUSE CENTRAL INDEX LISTING

NAME OF ALLEGED SUSPECT

COUNTY OF

The _____ County Child Welfare Services agency has completed an investigation of alleged child abuse or neglect and determined that the allegations of abuse or neglect are either inconclusive or substantiated. Pursuant to Penal Code Section 11169(b), this is notice that the finding of inconclusive or substantiated abuse or neglect was sent to the California Department of Justice (DOJ) for inclusion in the Child Abuse Central Index (CACI). The CACI contains certain information that enables authorized entities to locate investigations of alleged child abuse or neglect conducted by county child welfare departments.

Law enforcement agencies, court investigators, probation departments and district attorneys may use the CACI when investigating allegations of child abuse or neglect. The CACI is also used by licensing agencies and county welfare agencies to investigate persons who apply for licenses to care for children. If any of these agencies receive information from the CACI that there was a prior investigation of child abuse or neglect, they are required to investigate the child abuse or neglect allegation(s).

REPORTS OF SUSPECTED CHILD ABUSE MAINTAINED BY DOJ ARE CONFIDENTIAL AND MAY ONLY BE DISCLOSED TO STATUTORILY AUTHORIZED PARTIES (PENAL CODE SECTION 11167.5).

The County has determined that the allegation of child abuse or neglect against you is:

☐ Inconclusive

or

☐ Substantiated

An inconclusive finding is defined by Penal Code Section 11165.12(c) to mean that the investigator who conducted the investigation determined that the allegation of abuse or neglect was not unfounded but there is insufficient evidence to determine whether child abuse or neglect has occurred.

A substantiated finding is defined by Penal Code section 11165.12(b) to mean that the investigator who conducted the investigation determined that, based upon the evidence, it was more likely than not that child abuse or neglect occurred.

The term child abuse and neglect is defined by Penal Code section 11165.6. This determination is based on the following information discovered during the investigation:

NAME OF ALLEGED VICTIM(S):

DATE(S) AND LOCATION(S) THE ALLEGED ABUSE OR NEGLECT OCCURRED:

THE SPECIFIC ACT(S) OF ABUSE OR NEGLECT ALLEGED AGAINST YOU IS/ARE AS FOLLOWS:

REFERRAL NUMBER:

No action on your part is required at this time. However, if you want to challenge your listing on the CACI, you must complete the enclosed Request for Grievance Hearing form, and mail it to the following address:

You must mail the completed Request for Grievance Hearing form no later than 30 days from the date of this notice. As part of the grievance hearing procedures, you may inspect or receive a copy of the investigative report into this matter, which may be altered to remove information that the county is not authorized to provide to you. This information may be requested by checking the box under the signature line of the Request for Grievance Hearing form. For more information, you can contact:

COUNTY STAFF PERSON:

PHONE

DATED

()

GRIEVANCE PROCEDURES FOR CHALLENGING REFERENCE TO THE CHILD ABUSE CENTRAL INDEX

1. Within five (5) business days of the county submitting information to the Department of Justice (DOJ) to list an individual on the Child Abuse Central Index (CACI), the county shall provide to the listed person written notice, which shall contain the following information and materials:
 - a. That the county has completed an investigation of suspected child abuse or neglect that the county has determined to be either inconclusive or substantiated, and has referred the individual to DOJ for listing on the CACI;
 - b. The victim's name, a brief description of the alleged abuse or neglect and the date and location it occurred;
 - c. The individual's right to request a grievance hearing;
 - d. A county contact person;
 - e. A *Request for Grievance Hearing form*;
 - f. A copy of these grievance procedures

The notice required by this section may be satisfied by mailing the *Notice of Child Abuse Central Index Listing* and the *Request for Grievance Hearing forms*. The forms shall be mailed to the last known address of the individual or any other address known by the county where the notice and request for grievance are most likely to be received by the individual.

2. An individual wishing to challenge his or her reference to the CACI may request a grievance hearing pursuant to the following procedure. This does not preclude the county from initiating an internal investigation to address or rectify the matter identified in the request for grievance prior to the hearing. The county may resolve a grievance at any point by modifying a finding of inconclusive or substantiated abuse or neglect to unfounded and notifying DOJ of the need to remove the individual's name from the CACI.
 - a. A grievance shall be initiated by the individual submitting a written and signed *Request for Grievance Hearing*.
 - b. The *Request for Grievance Hearing* shall set forth the facts which the individual believes provides a basis for reversal of the county's finding of inconclusive or substantiated abuse.
 - c. The individual shall mail a completed *Request for Grievance Hearing form* to the county within thirty (30) calendar days of the date that the *Notice of Child Abuse Central Index Listing and Request for Grievance Hearing forms* were mailed to the individual identified as the perpetrator of the alleged abuse or serious neglect. Failure to mail the *Request for Grievance Hearing form* within the prescribed time-frame shall constitute waiver of the right to a grievance.
 - d. For individuals to whom no prior notification was mailed regarding his or her referral to the CACI, the individual shall file the request for grievance within 30 calendar days of becoming aware that he or she is listed on the CACI and becoming aware of the grievance process.
 - e. No grievance hearing shall be required when a court of competent jurisdiction has determined that the suspected abuse or neglect has occurred, or when the allegation of child abuse or neglect resulting in the referral to the CACI is pending before the court.
 - f. When an individual requests, the county shall assist the individual in the completion of the form necessary to initiate the request for grievance.
3. The grievance hearing shall be scheduled within ten (10) business days and held no later than sixty (60) calendar days from the date the *Request for Grievance Hearing form* is received by the county, unless otherwise agreed to by the individual and the county.
 - a. Notice of the date, time and place of the grievance hearing shall be mailed by the county to the individual requesting the grievance hearing (the complainant) at least 30 calendar days before the grievance hearing.
 - b. The complainant may have an attorney or other representative present at the hearing to assist him or her. The county shall release disclosable information to such attorney or representative only if the individual has provided the county with a signed authorization to do so.
 - c. Either party may request a continuance of the grievance hearing not to exceed ten (10) business days. Additional continuances, or dismissal of the hearing, shall be granted with mutual agreement of all parties involved, or for good cause.
4. The review of the social worker's finding of inconclusive or substantiated abuse or neglect shall be conducted as follows:
 - a. The grievance officer conducting the grievance hearing shall be:
 - i. A staff or other person not involved in the investigation of the alleged child abuse or neglect.
 - ii. Neither a co-worker nor a person directly in the chain of supervision of any of the persons involved in the investigation of the alleged abuse or neglect unless the grievance officer is the director or chief deputy director of the county.
 - iii. Knowledgeable in the field of child abuse or neglect investigations and capable of objectively reviewing the complaint.
 - b. The grievance hearing shall be, to the extent possible, conducted in a nonadversarial atmosphere.
 - c. Each party and their attorney or representative shall be permitted to examine the documents and other evidence which the opposing party intends to introduce at the grievance hearing. All relevant evidence, whether inculpatory or exculpatory, should be permitted to be examined in advance of the hearing. Witness lists shall be available for exchange in advance of the hearing. Failure to disclose evidence or witness lists in advance of the hearing can constitute grounds for objecting to consideration of the evidence at the hearing or to hearing the testimony of a witness during the hearing. Any documents or other evidence disclosed by the county to the complainant and/or his or her attorney or representative for the hearing shall be returned to the county at the conclusion of the hearing.
 - i. The county and the complainant shall make available for inspection the documents and other evidence they intend to rely upon at the grievance hearing at least ten (10) business days prior to the hearing, to the extent permitted by law.

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- ii. The county and the complainant shall make available to the other party a list of witnesses they intend to call at the grievance hearing at least ten (10) business days prior to the grievance hearing, to the extent permitted by law.
 - iii. The county may redact such names and personal identifiers from the documents and evidence as required by law and to protect the identity, health, and safety of those reporting the suspected abuse or neglect and providing information regarding their observations of the evidence indicating abuse or neglect.
 - d. Each party and their attorney or representative, and witnesses while testifying, shall be the only persons authorized to be present during the hearing unless all parties and the grievance officer consent to the presence of other persons. The information disclosed at the grievance hearing may not be used for any other purpose. The parties agree that no information presented at the grievance hearing will be disclosed to any person other than those directly involved in the matter. The evidence and information disclosed at the hearing may be part of an administrative record for a writ of mandate challenging the final decision of the County Director. The administrative record shall be kept confidential, including, if any of the parties request, that it be filed with the court under seal.
 - e. All testimony shall be given under oath or affirmation. The grievance officer has no subpoena power. However, the parties may call witnesses to the hearing and question the other party's witnesses. The grievance officer may limit the questioning of a witness to protect the witness from unwarranted embarrassment, oppression or harassment.
 - i. The grievance officer may prevent the presence and/or examination of a child at the grievance hearing for good cause, including but not limited to protecting the child from trauma or to protect his or her health, safety, and/or well-being. The grievance officer may permit the testimony and/or presence of a child only if the child's participation in the grievance is voluntary and the child is capable of providing voluntary consent. The grievance officer may interview the child outside the presence of the parties in order to determine whether the child's participation is voluntary or whether good cause exists for preventing the child from being present or testifying at the hearing.
 - ii. The county employee who conducted the investigation into the suspected child abuse or neglect shall be present at the hearing if that person is employed by the county, and is available to participate in the grievance. For purposes of this paragraph, a conflict in work assignments shall not render the county employee who conducted the investigation unavailable to participate in the hearing.
 - f. The county shall first present its evidence supporting its findings of inconclusive or substantiated abuse or neglect. The complainant will then provide his or her evidence supporting his or her claim that the county's finding should be withdrawn or changed. The county shall then be allowed to present rebuttal evidence in further support of its finding. Thereafter, the grievance officer may, at his or her discretion, allow the parties to submit any such additional evidence as may be warranted to fully evaluate whether a finding of inconclusive or substantiated abuse is warranted.
 - g. The grievance officer shall have the authority to continue the hearing for a period not to exceed ten (10) calendar days if additional evidence or witnesses are necessary for determination of the issue.
 - h. The grievance officer shall determine, based upon the evidence presented, whether the allegation of abuse or neglect is unfounded, inconclusive or substantiated as defined by the California Penal Code.
 - i. The County shall have the proceedings audio recorded as part of the official administrative record. The county shall possess and maintain the administrative record of the hearing. The complainant or the complainant's attorney shall be entitled to inspect the transcript and/or recording, however the county shall keep possession of the transcript and tape and its contents will remain under seal. Where the complainant seeks to inspect the transcript, the costs for transcribing a recording of the hearing shall be assessed to the complainant. The county shall lodge the administrative record with the court if any party seeks judicial review of the final decision of the County Director.
5. Grievance hearing decisions shall be rendered as follows:
- a. The grievance officer shall render a written recommended decision within 30 calendar days of the close of the grievance hearing. The decision shall contain a summary statement of the facts, the issues involved, findings, and the basis for the decision. The County Director shall issue a written final decision adopting, rejecting, or modifying the recommended decision within ten (10) business days after the recommended decision is issued. The County Director shall explain why a recommended decision was rejected or modified.
 - b. The final decision shall be based upon the evidence presented at the hearing.
 - c. A copy of the recommended and final decision shall be sent to the following:
 - i. Each complainant that requested a grievance hearing;
 - ii. The complainant's attorney or representative, if any; and
 - iii. The California Department of Social Services.
 - d. Where the county's finding of inconclusive or substantiated abuse or neglect is changed as a result of the grievance hearing, the county shall advise DOJ of the change and request that the complainant's name be removed from the CACI or that the designation of inconclusive or substantiated abuse or neglect be changed accordingly.
6. The hearing record shall be retained for a length of time consistent with current law, regulations, or judicial order which governs the retention of the underlying record, but not less than one year from the decision date in any circumstance, and shall include the documents and other evidence accepted as evidence at the hearing.

REQUEST FOR GRIEVANCE HEARING

REFERRAL NUMBER	COUNTY OF
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No grievance hearing shall be required when a court of competent jurisdiction has determined that the suspected abuse or neglect has occurred, or when the allegation of child abuse or neglect resulting in the referral to the Child Abuse Central Index is pending before the court.

A. CONTACT INFORMATION

NAME:	DATE OF BIRTH
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STREET ADDRESS:

CITY:	STATE:	ZIP CODE:
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TELEPHONE NUMBER: ()	ALTERNATE NUMBER: ()
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I hereby request a grievance hearing to dispute the decision to list my name on the Child Abuse Central Index (CACI). I acknowledge that I have received a copy of the Notice of Child Abuse Central Index Listing and a copy of the Grievance Hearing Procedures.

B. REASON FOR GRIEVANCE

The reason I am requesting a grievance hearing is because **(YOU MUST CHECK AT LEAST ONE)**:

- ☐ I am not the person who committed the alleged act(s) of abuse or neglect.
- ☐ The alleged act(s) of abuse or neglect did not occur.
- ☐ Even if the alleged act(s) occurred, these acts are not abuse or neglect within the meaning of the Child Abuse and Neglect Reporting Act.
- ☐ Other. If this box is checked, please explain below. If you need more space for your explanation, you may attach additional pages to this form.

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SIGNATURE:	DATED:
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- ☐ Check this box if you would like to schedule an appointment so that you can examine the evidence the county intends to present at the grievance hearing in support of its finding of inconclusive or substantiated abuse or neglect. At this appointment, you must also bring and disclose to the county all the evidence that supports your claim that you should not be listed on the CACI.

You may have an attorney or other representative present at the hearing to assist you. If you intend to have an attorney or other representative present, please provide us with the following information.

C. ATTORNEY/REPRESENTATIVE INFORMATION

ATTORNEY OR REPRESENTATIVE'S NAME:	PHONE NUMBER: ()
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ATTORNEY OR REPRESENTATIVE'S ADDRESS:

Please return this Request for Grievance to this address:

Address:

Attn:

NONSUBSTANTIVE

ORIGINAL

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2010-0423-02N	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

FILED

In the office of the Secretary of State of the State of California

JUN 2 2010

At 2:02 O'Clock P M.
DEBRA BOWEN, Secretary of State
By [Signature]
Deputy Secretary of State

AGENCY WITH RULEMAKING AUTHORITY California Department of Social Services	AGENCY FILE NUMBER (If any) ORD #0110-01
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A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE ☐ Notice re Proposed Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn			NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Access to State Hearings Records Section 100		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT	
TITLE(S) MPP		AMEND 19-005	
3. TYPE OF FILING		REPEAL	
☐ Regular Rulemaking (Gov. Code §11346) ☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) ☐ Emergency (Gov. Code, §11346.1(b)) ☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. ☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) ☐ Emergency Readopt (Gov. Code, §11346.1(h)) ☐ File & Print ☐ Other (Specify) _____ ☒ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) ☐ Print Only			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11342.4, 11346.1(d); Cal. Code Regs., title 1, §100) ☐ Effective 30th day after filing with Secretary of State ☒ Effective on filing with Secretary of State ☒ §100 Changes Without Regulatory Effect ☐ Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY ☐ Department of Finance (Form STD. 399) (SAM §6660) ☐ Fair Political Practices Commission ☐ State Fire Marshal ☐ Other (Specify) _____			
7. CONTACT PERSON Zaid Dominquez		TELEPHONE NUMBER 916-657-2586	FAX NUMBER (Optional) 916-654-3286
		E-MAIL ADDRESS (Optional) ord.ca.gov	

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <u>[Signature]</u>	DATE 4/15/10
TYPED NAME AND TITLE OF SIGNATORY JOHN A WAGNER, Director	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JUN 02 2010

Office of Administrative Law

Amend Section 19-005.4 to read:

19-005 RELEASE TO APPLICANT/RECIPIENT OR AUTHORIZED
 REPRESENTATIVE (Continued)

19-005

.3 (Continued)

.4 ~~Release of Information in Conjunction With a State Hearing~~ Access to Case Records

The applicant/recipient or his/her attorney or authorized representative may inspect the case records including the entire case narrative relating to the applicant or recipient which are held by DSS, DHS, or any agency supervised by DSS with the following exceptions listed below in Section 19-006.

Authority Cited: Sections 10063(b), 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10063(a), 10850.2, and 11206, Welfare and Institutions Code.

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-08)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2010-0602-01 EFP
For use by Office of Administrative Law (OAL) only		In the office of the Secretary of State of the State of California	
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY California Department of Social Services		AGENCY FILE NUMBER (if any) ORD#0310-04	

2010 JUN 10 2 08:43
OFFICE OF ADMINISTRATIVE LAW

FILED
JUN 10 2010
At 1:15 O'Clock P M
DEBRA BOWEN, Secretary of State
By *[Signature]*
Deputy Secretary of State

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE ☐ Notice re Proposed Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) ABX4 4 60-Month Time Clock Exemption		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)		ENDORSED APPROVED JUN 10 2010 Office of Administrative Law	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT		
	AMEND 42-712, 42-713, 42-302		
TITLE(S) MPP	REPEAL per agency memo 6-9-2010		
3. TYPE OF FILING			
☐ Regular Rulemaking (Gov. Code §11346) ☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) ☒ Emergency (Gov. Code, §11346.1(b)) ☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. ☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) ☐ Emergency Readopt (Gov. Code, §11346.1(h)) ☒ File & Print ☐ Other (Specify) _____ ☐ Charges Without Regulatory Effect (Cal. Code Regs., title 1, §100) ☐ Print Only			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1) N/A			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100) ☐ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☐ §100 Changes Without Regulatory Effect ☒ Effective other (Specify) July 1, 2010			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY ☐ Department of Finance (Form STD. 399) (SAM §6660) ☐ Fair Political Practices Commission ☐ State Fire Marshal ☐ Other (Specify) _____			
7. CONTACT PERSON Sue Tognet, Analyst	TELEPHONE NUMBER (916) 657-2586	FAX NUMBER (Optional) (916) 654-3286	E-MAIL ADDRESS (Optional) stognet@dss.ca.gov

8.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

TYPED NAME AND TITLE OF SIGNATORY

John A. Wagner, Director

5/25/10

INSTRUCTIONS FOR PUBLICATION OF NOTICE AND SUBMISSION OF REGULATIONS

Use the form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the name of the agency with the rulemaking authority and agency's file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations and the statement of reasons. Upon receipt of the notice, OAL will place a number in the box marked "Notice File Number." If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Gov. Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the OAL file number(s) of all previously disapproved or withdrawn filings in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). Submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Gov. Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Gov. Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A and insert the OAL file number(s) for the original emergency filing(s) in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B, including the signed certification, on the form that was previously submitted with the notice. If a new STD. 400 is used, fill in Part B including the signed certification, and enter the previously assigned notice file number in the box marked "Notice File Number" at the top of the form. The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for re adoption, use a new STD. 400 and fill out Part B, including the signed certification, and insert the OAL file number(s) related to the original emergency filing in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B).

CHANGES WITHOUT REGULATORY EFFECT

When submitting changes without regulatory effect pursuant to California Code of Regulations, Title 1, section 100, complete Part B, including marking the appropriate box in both B.3. and B.5.

ABBREVIATIONS

Cal. Code Regs. - California Code of Regulations
Gov. Code - Government Code
SAM - State Administrative Manual

For questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law Reference Attorney at (916) 323-6815.

42-302 60-MONTH TIME LIMIT REQUIREMENTS FOR ADULTS

.2 Counting the 60-Month Limit (Continued)

(a) (Continued)

(1) (Continued)

(3) Being the parent or other relative who has primary responsibility for personally providing care to one child who is from 12 to 23 months of age, inclusive, or two or more children who are under six years of age. This paragraph shall become inoperative on July 1, 2011.

(k) <u>Lack of Necessary Supportive Services</u>	The individual is excused from participation for good cause due to lack of necessary supportive services, as specified in Section 42-713.21. This paragraph shall become inoperative on July 1, 2011.
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Reference: Sections 10553, 10554, 11266.5, 11320, 11320.3, 11454, 11454(e) and (e)(5), 11454.5, 1454.5(b) and (b)(4) and (5), and 11495.1, Welfare and Institutions Code; Section 37 of AB 444 (Chapter 1022, Statutes of 2002); and 42 U.S.C. 608(a)(7)(a), (B) and (D).

Amend Section 42-712 to read:

42-712 EXEMPTIONS FROM WELFARE-TO-WORK PARTICIPATION 42-712

.4 Individuals who meet any of the criteria specified in Sections 42-712.41 through 41-712.49 are exempt from participating in welfare-to-work activities as a condition of eligibility for cash aid under CalWORKs for so long as the condition(s) described in such sections exist. (Continued)

.47 Exemption Based on the Care of a Child (Continued)

.474 The parent or other relative who has primary responsibility for personally providing care to one child who is from 12 to 23 months of age, inclusive, or two or more children who are under six years of age is exempt from welfare-to-work participation. This paragraph shall become inoperative on July 1, 2011. (Continued)

.6 Any month in which an individual is exempt from welfare-to-work activities based on the following exemption criteria shall not be taken into consideration as a month of receipt of aid in computing the 60-month time limit described in Section 42-302. Other ~~exclusions~~ exemptions from the 60-month time limit are listed in Section 42-302. (Continued)

.64 Being responsible for personally providing care to a child or children of a specific age, as described in Section 42.712.474. This paragraph shall become inoperative on July 1, 2011. (Continued)

Authority Cited: Sections 10553, 10554, 10604, and 11369, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 10063(b), 11253.5, 11320, 11320.3, 11331.5(a), (b), (c), and (d), 11454, and 11454.5, Welfare and Institutions Code; and 42 U.S.C. 5044(f)(2).

Amend Section 42-713 to read:

42-713 GOOD CAUSE FOR NOT PARTICIPATING

42-713

.4 An individual who is excused from welfare-to-work participation for good cause is subject to the 60-month time limit in Section 42-302. (Continued)

.43 Effective July 28, 2009, any month in which an individual is excused from participation for good cause due to lack of supportive services, as specified in Section 42-713.21, shall not be counted toward the 60-month time limit. This paragraph shall become inoperative on July 1, 2011.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 11320.3(b) and (f), 11323.2, 11325.23(c), 11454, 11454.5, 11495, and 11495.1, Welfare and Institutions Code; 42 U.S.C. 607(e)(2); and 45 CFR 261.15.

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2009-0519-02	REGULATORY ACTION NUMBER 2010-0526-015	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only		In the office of the Secretary of State of the State of California	
NOTICE		REGULATIONS	

FILED

JUL 09 2010

At 1:39 O'Clock P. M.
DEBRA BOWEN, Secretary of State
 By [Signature]
 Deputy Secretary of State

AGENCY WITH RULEMAKING AUTHORITY
 California Department of Social Services

AGENCY FILE NUMBER (if any)
 ORD #0109-01

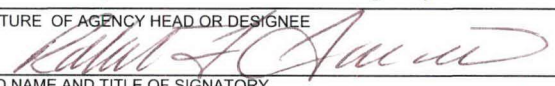
A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE ☐ Notice re Proposed Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn		NOTICE REGISTER NUMBER 2009 #22-2	PUBLICATION DATE 5-29-2009

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) SB 1896, Requirement for Bedridden Persons in RCfEs		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT 87714-87606 AMEND 87202, 87208, 87212, 87455, 87633 REPEAL	
TITLE(S) Title 22/MPP			
3. TYPE OF FILING			
☒ Regular Rulemaking (Gov. Code §11346) ☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4) ☐ Emergency (Gov. Code, §11346.1(b)) ☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. ☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) ☐ Emergency Readopt (Gov. Code, §11346.1(h)) ☐ File & Print ☐ Other (Specify) _____ ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) ☐ Print Only			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1) April 23, 2010 to May 10, 2010			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
☒ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☐ §100 Changes Without Regulatory Effect ☐ Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
☒ Department of Finance (Form STD. 399) (SAM §6660) ☐ Fair Political Practices Commission ☐ State Fire Marshal ☐ Other (Specify) _____			
7. CONTACT PERSON Zaid Dominguez, Manager		TELEPHONE NUMBER 916-657-2586	FAX NUMBER (Optional) E-MAIL ADDRESS (Optional) ord@dss.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

 TYPED NAME AND TITLE OF SIGNATORY
ROBERT GARCIA, Chief Deputy Director

DATE
5/20/2010

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JUL 09 2010

Office of Administrative Law

1. Amend Section 87202 to read:
2. Post Hearing: Amend Section 87202(a)(2) to read:

87202 FIRE CLEARANCE

87202

- (a) All facilities shall maintain a fire clearance approved by the city, county, or city and county fire department, ~~the or~~ district providing fire protection services, or the State Fire Marshal. Prior to accepting or retaining any of the following types of persons, the applicant or licensee shall notify the licensing agency and obtain an appropriate fire clearance, approved by the city, county, or city and county fire department, ~~the or~~ district providing fire protection services, or the State Fire Marshal, ~~through the licensing agency:~~

(1) ~~Persons over 65 years of age.~~

(21) Nonambulatory persons.

(2) Bedridden persons

HANDBOOK BEGINS HERE

Health and Safety Code Section 1569.72(c) provides in part:

"(c) ...bedridden persons may be admitted to, and remain in, residential care facilities for the elderly that secure and maintain an appropriate fire clearance. A fire clearance shall be issued to a facility in which a bedridden person resides if either of the following conditions are met:

(1) The fire safety requirements are met. Residents who are unable to independently transfer to and from bed, but who do not need assistance to turn or reposition in bed, shall be considered nonambulatory for purposes of this paragraph.

(2) Alternative methods of protection are approved."

Health and Safety Code Sections 1569.72(h)(2)(B)(ii) provides:

"(h)(2)(B)(ii) Either the facility, the resident or residents' representative, or local fire official may request from the Office of the State Fire Marshal a written opinion concerning the interpretation of the regulations promulgated by the State Fire Marshal pursuant to this section for a particular factual dispute. The State Fire Marshal shall issue the written opinion within 45 days following the request."

Health and Safety Code Sections 1569.72(i) provides:

"(i) For facilities that care for six or fewer clients, a local fire official may not impose fire safety requirements stricter than the fire safety regulations promulgated for the particular type of facility by the Office of the State Fire Marshal or the local fire safety requirements imposed on any other single family dwelling, whichever is more strict."

HANDBOOK ENDS HERE

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1569.2, ~~and~~ 1569.312, and 1569.72, Health and Safety Code.

Amend Section 87208 to read:

87208 PLAN OF OPERATION

87208

(a) (Continued)

(7) Sketches, showing dimensions, of the following:

(A) Building(s) to be occupied, including a floor plan that describes the capacities of the building for the uses intended and a designation of the rooms to be used for nonambulatory residents and for bedridden residents, other than for a temporary illness or recovery from surgery as specified in Sections 87606(d) and (e).

(B) (Continued)

(d) A licensee who accepts or retains bedridden persons shall include additional information in the plan of operation as specified in Section 87606(f).

Authority Cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.15, 1569.157, 1569.175, 1569.2, 1569.31, 1569.312, 1569.313, 1569.316, 1569.626, ~~and 1569.627,~~ and 1569.72, Health and Safety Code.

Amend Section 87212 to read:

87212 EMERGENCY DISASTER PLAN (Continued)

87212

(b) (Continued)

(2) Plan for evacuation including:

(A) Fire safety plan.

(B) Means of exiting.

(C) The assembly of residents to a predetermined evacuation site.

(D) Transportation arrangements.

(E) Relocation sites which are equipped to provide safe temporary accommodations for residents.

(F) Supervision of residents during evacuation or relocation and contact after relocation to assure that relocation has been completed as planned.

(G) Means of contacting local agencies such as fire department, law enforcement agencies, civil defense and other disaster authorities.

(3) Provision for notifying a resident's hospice agency, if any, in the event of evacuation and/or relocation.

(A) ~~Fire Safety Plan.~~

(B) ~~Means of exiting.~~

(C) ~~Transportation arrangements.~~

(D) ~~Relocation sites which are equipped to provide safe temporary accommodations for residents.~~

(E) ~~Supervision of residents during evacuation or relocation and contact after relocation to assure that relocation has been completed as planned.~~

(F) ~~Means of contacting local agencies such as fire department, law enforcement agencies, civil defense and other disaster authorities.~~

(c) (Continued)

Authority Cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, 1569.31, 1569.312 and 13131, Health and Safety Code.

Amend Section 87455 to read:

87455 ACCEPTANCE AND RETENTION LIMITATIONS (Continued)

87455

(b) The following persons may be accepted or retained in the facility: (Continued)

(6) Persons who are bedridden provided the requirements of Section 87606 are met.

(67) (Continued)

(c) No resident shall be accepted or retained if any of the following apply: (Continued)

(2) The resident requires 24-hour, skilled nursing or intermediate care as specified in Health and Safety Code Sections 1569.72(a) and (a)(1).

HANDBOOK BEGINS HERE

Health and Safety Code Sections 1569.72(a) and (a)(1) provide in part:

"(a) ...no resident shall be admitted or retained in a residential care facility for the elderly if any of the following apply:

(1) The resident requires 24-hour, skilled nursing or intermediate care."

HANDBOOK ENDS HERE

(3) (Continued)

(4) ~~The resident is bedridden, other than for a temporary illness or for recovery from surgery, except as otherwise provided in Section 87455(f).~~

(d) ~~For the purposes of this section, "bedridden" means any of the following:~~

(1) ~~An applicant or resident who requires assistance in turning and repositioning in bed and is unable to leave a building unassisted under emergency conditions.~~

(2) ~~An applicant or resident who is unable to independently transfer to and from bed and is unable to leave a building unassisted under emergency conditions.~~

(e) ~~For the purposes of this section, "temporary illness" means any illness which persists for 14 days or less.~~

(f) ~~A bedridden resident may be retained in a residential care facility for the elderly in excess of 14 days if all the following requirements are satisfied:~~

- (1) ~~The facility notifies the department in writing regarding the temporary illness or recovery from surgery.~~
- (2) ~~The facility submits to the department, with the notification, a physician and surgeon's written statement to the effect that the resident's illness or recovery is of a temporary nature. The statement shall contain an estimated date upon which the illness or recovery will end or upon which the resident will no longer be confined to a bed.~~
- (3) ~~The department determines that the health and safety of the resident is adequately protected in that facility and that transfer to a higher level of care is not necessary.~~
- (g) ~~Notwithstanding the length of stay of a bedridden resident, every facility admitting or retaining a bedridden resident, as defined in this section, shall, within 48 hours of the resident's admission or retention in the facility, notify the local fire authority with jurisdiction in the bedridden resident's location of the estimated length of time the resident will retain his or her bedridden status in the facility.~~

(hd) (Continued)

Authority Cited: Sections 1569.30 and 1569.698, Health and Safety Code.

Reference: Sections 1250, 1569.1, 1569.2, 1569.31, 1569.312, 1569.54, 1569.699, and 1569.72, Health and Safety Code.

Amend Section 87633 to read:

Post Hearing: Amend Section 87633 to read:

87633 HOSPICE CARE FOR TERMINALLY ILL RESIDENTS (Continued) 87633

- (l) Residents receiving hospice care who are bedridden as defined in Section 87455(d), may reside in the facility provided the facility ~~notifies the local fire authority of the estimated length of time the resident will be bedridden~~ meets the requirements of Section 87606, Care of Bedridden Residents. ~~Notification must occur within 48 hours of the individual's bedridden status.~~

- (m) (Continued)

Authority Cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, 1569.31, 1569.312, 1569.54, 1569.72, and 1569.73, Health and Safety Code.

1. Adopt Section 87606:
2. Post Hearing: Amend Section 87606 to read:

87606 CARE OF BEDRIDDEN RESIDENTS

87606

- (a) Unless otherwise specified, this section applies to licensees who accept or retain residents who are bedridden. The licensee shall be permitted to accept and retain residents who are or shall become bedridden, if all the following conditions are met.

HANDBOOK BEGINS HERE

Health and Safety Code Section 1569.72(b)(1) provides in part:

"(b)(1) ...'bedridden' means either requiring assistance in turning and repositioning in bed, or being unable to independently transfer to and from bed..."

HANDBOOK ENDS HERE

- (b) A facility shall notify the local fire jurisdiction within 48 hours of accepting or retaining any bedridden person, as specified in Health and Safety Code Section 1569.72(f).

HANDBOOK BEGINS HERE

Health and Safety Code Section 1569.72(f) provides:

"(f) Notwithstanding the length of stay of a bedridden resident, every facility admitting or retaining a bedridden resident, as defined in this section, shall, within 48 hours of the resident's admission or retention in the facility, notify the local fire authority with jurisdiction in the bedridden resident's location of the estimated length of time the resident will retain his or her bedridden status in the facility."

HANDBOOK ENDS HERE

- (c) To accept or retain a bedridden person, other than for a temporary illness or recovery from surgery, a facility shall obtain and maintain an appropriate fire clearance as specified in Section 87202(a).
- (d) For the purposes of this section, "temporary illness" is defined in Health and Safety Code Section 1569.72(d)(1).

HANDBOOK BEGINS HERE

Health and Safety Code Section 1569.72(d)(1) provides:

"(d)(1) For purposes of this section, 'temporary illness' means any illness which persists for 14 days or less."

HANDBOOK ENDS HERE

- (e) A facility may retain a bedridden resident for more than 14 days if all of the requirements of Health and Safety Code Section 1569.72(e) are met.

HANDBOOK BEGINS HERE

Health and Safety Code Section 1569.72(e) provides:

"(e) A bedridden resident may be retained in a residential care facility for the elderly in excess of 14 days if all of the following requirements are satisfied:

"(1) The facility notifies the department in writing regarding the temporary illness or recovery from surgery.

"(2) The facility submits to the department, with the notification, a physician and surgeon's written statement to the effect that the resident's illness or recovery is of a temporary nature. The statement shall contain an estimated date upon which the illness or recovery will end or upon which the resident will no longer be confined to a bed.

"(3) The department determines that the health and safety of the resident is adequately protected in that facility and that transfer to a higher level of care is not necessary.

"(4) This section does not expand the scope of care and supervision of a residential care facility for the elderly."

HANDBOOK ENDS HERE

- (1) If it is determined that a resident will be temporarily bedridden for more than 14 days, the facility shall notify the fire authority having jurisdiction of the revised estimated length of time that the resident will be bedridden, as required in Section 87606(b).

- (f) To accept or retain a bedridden person, a facility shall ensure the following:

- (1) The facility's Plan of Operation includes a statement of how the facility intends to meet the overall health, safety and care needs of bedridden persons.

(A) The facility's Emergency Disaster Plan, addresses fire safety precautions specific to evacuation of bedridden residents in the event of an emergency or disaster.

- (B) In addition to the requirements specified in Care of Persons with Dementia, the needs of residents with dementia who are bedridden, shall be met.
- (C) The needs of residents who are terminally ill and who are bedridden shall be met.
- (2) Each bedridden resident's record includes sufficient documentation to demonstrate that the facility is meeting the needs of the individual resident as specified in Section 87506.
- (3) Staff records include documentation of staff training specific to Care of Bedridden Residents.
- (4) The facility's Register of Residents shall include:
 - (A) compliance with Section 87508,
 - (B) information related to resident room locator,
 - (C) register of residents be made available, upon request, to emergency personnel, and
 - (D) facility staff have knowledge of the location of the register of residents at all times.
- (g) Nothing contained in this section or in Chapter 8 precludes the licensing agency from requiring the relocation of a bedridden resident whose needs are not being met in a facility, or whose needs are beyond the scope of care of the facility.

Authority Cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, 1569.31, 1569.312, 1569.54, 1569.62, 1569.625, 1569.72, and 1569.80, Health and Safety Code.

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2009-1215-03	REGULATORY ACTION NUMBER 2010-0726-035	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

2010 JUL 26 PM 3:58

OFFICE OF
ADMINISTRATIVE LAW

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY
California Department of Social Services

AGENCY FILE NUMBER (If any)
ORD #0509-06

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE ☐ Notice re Proposed Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn		NOTICE REGISTER NUMBER 2009-#52-2	PUBLICATION DATE 12-25-2009

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Intercounty Transfer Changes in the CalWORKs Program	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT AMEND Section 40-188 REPEAL
TITLE(S) MPP	

3. TYPE OF FILING			
☒ Regular Rulemaking (Gov. Code §11346)	☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	☐ Emergency Readopt (Gov. Code, §11346.1(h))	☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4)	☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	☐ File & Print	☐ Print Only
☐ Emergency (Gov. Code, §11346.1(b))		☐ Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)
May 19 to June 3, 2010

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
☒ Effective 30th day after filing with Secretary of State	☐ Effective on filing with Secretary of State	☐ §100 Changes Without Regulatory Effect	☐ Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
☒ Department of Finance (Form STD. 399) (SAM §6660)	☐ Fair Political Practices Commission	☐ State Fire Marshal	
☐ Other (Specify) _____			

7. CONTACT PERSON Zaid Dominguez, Manager, Office of Regulations	TELEPHONE NUMBER (916) 657-2586	FAX NUMBER (Optional) (916) 654-3286	E-MAIL ADDRESS (Optional) zaid.dominguez@dss.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 7/23/10
TYPED NAME AND TITLE OF SIGNATORY John A. Wagner, Director	

For use by Secretary of State only

FILED

In the office of the Secretary of State of the State of California

AUG 26 2010

At 2:28 O'Clock P M.
DEBRA BOWEN, Secretary of State
By 
Deputy Secretary of State

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

AUG 26 2010

Office of Administrative Law

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 01-09) (REVERSE)

INSTRUCTIONS FOR PUBLICATION OF NOTICE AND SUBMISSION OF REGULATIONS

Use the form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the name of the agency with the rulemaking authority and agency's file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations and the statement of reasons. Upon receipt of the notice, OAL will place a number in the box marked "Notice File Number." If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Gov. Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the OAL file number(s) of all previously disapproved or withdrawn filings in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). Submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Gov. Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Gov. Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A and insert the OAL file number(s) for the original emergency filing(s) in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B, including the signed certification, on the form that was previously submitted with the notice. If a new STD. 400 is used, fill in Part B including the signed certification, and enter the previously assigned notice file number in the box marked "Notice File Number" at the top of the form. The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for re adoption, use a new STD. 400 and fill out Part B, including the signed certification, and insert the OAL file number(s) related to the original emergency filing in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B).

CHANGES WITHOUT REGULATORY EFFECT

When submitting changes without regulatory effect pursuant to California Code of Regulations, Title 1, section 100, complete Part B, including marking the appropriate box in both B.3. and B.5.

ABBREVIATIONS

Cal. Code Regs. - California Code of Regulations
Gov. Code - Government Code
SAM - State Administrative Manual

For questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law Reference Attorney at (916) 323-6815.

Amend Section 40-188.21 to read:

Post-hearing: Amend Section 40-188.211 to read:

40-188 TRANSFER PROCEDURE (Continued)

40-188

.2 Second County

The second county shall:

.21 Contact Recipient

Provide or send an appointment letter to the recipient, if the address is known. The letter shall include the address and telephone number of the county welfare office, an appointment date and time, and inform the recipient that the appointment may be re-scheduled, if needed. Aid shall not be stopped or suspended for the recipient's failure to keep the first appointment during the transfer period. The county may also include with the appointment letter any additional forms needed to complete the redetermination of eligibility.

.211 Exemption

Verify that non-needy caretaker relatives who are receiving CalWORKs on behalf of a child who is a dependent of the court (and who is not receiving federal Foster Care benefits) are approved pursuant to the standards of subdivision (d) of Section 309 of the Welfare and Institutions Code to care for the court dependent child. Once verified, this population is exempt from attending the ICT redetermination appointment with the second county. (Continued)

Authority cited: Sections 10553, 10554, 10605, 11052.6, 11053, 11102, and 11369, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 10605, and 11265.1, Welfare and Institutions Code; and Nickols v. Saenz Court Order Case Number 310867.

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-08)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z- 2010-0119-01	REGULATORY ACTION NUMBER 2010-0721-02C	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only		In the office of the Secretary of State of the State of California	
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY California Department of Social Services		AGENCY FILE NUMBER (if any) ORD#0909-08	

2010 JUL 21 PM 12:49
OFFICE OF
ADMINISTRATIVE LAW

AUG 26 2010

At 2:29 O'Clock P M.
DEBRA BOWEN, Secretary of State
By *Shenstagn*
Deputy Secretary of State

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE ☐ Notice re Proposed ☐ Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn		NOTICE REGISTER NUMBER 2010#5-2	PUBLICATION DATE 1-29-2010

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) AB 1808 Penalty Pass-On Regulations		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2010-0119-01E	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)		ENDORSED APPROVED	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 91-101, 91-110, 91-120, 91-130, 91-140		
TITLE(S) MPP	AMEND REPEAL		
3. TYPE OF FILING			
☐ Regular Rulemaking (Gov. Code §11346) ☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) ☐ Emergency (Gov. Code, §11346.1(b)) ☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. ☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) ☐ Emergency Readopt (Gov. Code, §11346.1(h)) ☐ File & Print ☐ Other (Specify) _____ ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) ☐ Print Only			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1) May 27 to June 11, 2010 and June 24 to July 9, 2010			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100) ☐ Effective 30th day after filing with Secretary of State ☒ Effective on filing with Secretary of State ☐ §100 Changes Without Regulatory Effect ☐ Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY ☒ Department of Finance (Form STD. 399) (SAM §6660) ☐ Fair Political Practices Commission ☐ State Fire Marshal ☐ Other (Specify) _____			
7. CONTACT PERSON Zaid Dominguez, Manager	TELEPHONE NUMBER (916) 657-2586	FAX NUMBER (Optional) (916) 654-3286	E-MAIL ADDRESS (Optional) zaid.dominguez@dss.ca.gov

8.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

TYPED NAME AND TITLE OF SIGNATORY

John A. Wagner, Director

7-19-10

INSTRUCTIONS FOR PUBLICATION OF NOTICE AND SUBMISSION OF REGULATIONS

Use the form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the name of the agency with the rulemaking authority and agency's file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations and the statement of reasons. Upon receipt of the notice, OAL will place a number in the box marked "Notice File Number." If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Gov. Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the OAL file number(s) of all previously disapproved or withdrawn filings in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). Submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Gov. Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Gov. Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A and insert the OAL file number(s) for the original emergency filing(s) in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B, including the signed certification, on the form that was previously submitted with the notice. If a new STD. 400 is used, fill in Part B including the signed certification, and enter the previously assigned notice file number in the box marked "Notice File Number" at the top of the form. The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and insert the OAL file number(s) related to the original emergency filing in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B).

CHANGES WITHOUT REGULATORY EFFECT

When submitting changes without regulatory effect pursuant to California Code of Regulations, Title 1, section 100, complete Part B, including marking the appropriate box in both B.3. and B.5.

ABBREVIATIONS

Cal. Code Regs. - California Code of Regulations
Gov. Code - Government Code
SAM - State Administrative Manual

For questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law Reference Attorney at (916) 323-6815.

CHAPTER 91-100 PASS-ON OF FEDERAL PENALTIES

Adopt Chapter 91-100 and Section 91-101 to read:

91-101 DEFINITIONS

91-101

The following definitions are for the purposes of Chapter 91-100 only.

- .1 "All family" means all Temporary Assistance for Needy Families (TANF) cases with at least one work-eligible individual in the home.
- .2 "MOE" means maintenance-of-effort and is the statewide expenditure of state and local funds that must be made in order for the state to receive its TANF block grant funding.
- .3 "Caseload Reduction Credit" means a reduction in the minimum federal work participation rate standard if the state's average monthly TANF assistance caseload decreased the previous federal fiscal year in comparison to its average monthly TANF caseload in the base year. This definition includes the surplus MOE caseload reduction credit found in 45 Code of Federal Regulations(CFR) Section 261.43.
- .4 "County MOE" means county maintenance-of-effort and is the required amount that each county shall expend in their CalWORKs and Food Stamps programs from their own funds, either from the county's general fund or from the social services account of the county health and welfare trust fund to support the administration of programs providing support to needy families.
- .5 "County Work Participation Rates (Co WPRs)" means a calculation (based on federal TANF rules) to determine the rate of TANF families that are meeting federal work participation requirements. There are two rates calculated for each county: one is for two-parent families and the other is for all families, which is an overall work participation rate.
- .6 "Department" or "CDSS" means the California Department of Social Services.
- .7 "Two-parent family" means a TANF family with two work-eligible natural or adoptive parents (of the same minor child) living in the home, unless both are minors and neither is a head-of-household.
- .8 "Work-eligible individual" means the same as defined in 45 CFR Section 261.2 (n).

HANDBOOK BEGINS HERE

- .81 The TANF rule issued by the Department of Health and Human Services at 73 Federal Register 6772-6828 (February 5, 2008) clarified the definition of a work-eligible individual as an adult (or minor child head-of-household) receiving

assistance under TANF or a separate state program or a non-recipient parent living with a child receiving such assistance unless the parent is:

- .811 A non-citizen who is ineligible to receive assistance due to his or her immigration status,
- .812 A minor parent and not the head-of-household,
- .813 At state option on a case-by-case basis, a recipient of Supplemental Security Income (SSI) benefits, Social Security Disability Insurance (SSDI) or Aid to the Aged, Blind and Disabled in the Territories,
- .814 A parent providing care for a disabled family member living in the home, provided that the need for such care is supported by medical documentation, or
- .815 An individual in a family receiving MOE-funded assistance under an approved Tribal TANF program, unless the state includes the Tribal family in calculating work participation rates.

HANDBOOK ENDS HERE

- .9 "Work Participation Rate"(WPR) means, per federal definition, the adjusted work participation rate after the caseload reduction credit is considered.

Authority cited: Sections 10544, 10553, and 10554, Welfare and Institutions Code.

Reference: Sections 10540.5, 10544, 11521, 15200, 15204.2, 15204.25, and 15204.4 Welfare and Institutions Code; 45 Code of Federal Regulations (CFR) Sections 260.30, 260.31, 260.32 260.33, 261.2, 261.40, 261.41, 261.42, 261.43, 261.44, 262.2, and 263.1.

Adopt Section 91-110 to read:

First 15-day renote: Amend Section 91-110.6.63 to read:

Second 15-day renote: Amend Section 91-110.6.61 and 91-110.6.63

91-110 CWD REPORTING RESPONSIBILITIES

91-110

- .1 Each county welfare department (CWD) shall review, report, and submit to CDSS accurate, timely, and complete data, as required by CDSS, to comply with federal and state disaggregated data, which consist of individual and case-level, reporting requirements and to determine the CWD's degree of compliance with federal TANF and state performance requirements. The data and performance areas to be reviewed and reported shall include, but are not limited to, the following:
 - .11 Family characteristics,
 - .12 Funding source,
 - .13 Time on aid,
 - .14 Incomes available to the family,
 - .15 Actual hours of participation in work activities, and
 - .16 Employment data.
- .2 Each CWD shall:
 - .21 Use the sample of county-specific and/or state cases referred by CDSS within the time frames determined by CDSS,
 - .22 Conduct data reporting activities as required by CDSS to provide statistically valid data for county-specific and/or state outcome measurement and other purposes as required by federal or state law, and
 - .23 Ensure the timeliness, accuracy, and completeness of the county-specific and state data submitted for transmission and analysis.
- .3 Each CWD shall provide data from county-specific and/or state cases each month consistent with federal and state requirements.
 - .31 A random sample of county-specific and/or state cases shall be reviewed monthly.
 - .32 CWD sample reviews shall comply with standards as prescribed by current federal and state regulations.

- .33 All case reviews shall be completed and transmitted by CWD staff to CDSS as required by CDSS and/or the United States Department of Health and Human Services (DHHS).
- .4 CWDs shall perform data collection activities as part of the CWD sample case review required by this section.
- .5 Substantial noncompliance by a CWD in meeting the requirements of this section, as documented by CDSS, shall subject that CWD to the provisions of Welfare and Institutions Code Section 10544. Examples of substantial noncompliance include the following:
 - .51 Chronically missing state and federal deadlines;
 - .52 Chronically not meeting federal and state accuracy regulations;
 - .53 Willfully misrepresenting data;
 - .54 Failure to submit accurate, complete, and timely data, without good cause; and/or
 - .55 Failure to submit complete data for each sample case for every month in a federal fiscal year.
- .6 CDSS shall select and review a sample of cases to validate the data reported by the CWD on the federal and/or county-specific sub-samples and/or state sub-samples and inform the county of the results of the review. CDSS may change review findings based on a difference in findings between CWD review and CDSS review of CWD cases.
 - .61 A CWD shall have ~~ten (10)~~ twenty (20) working days from the CWD's date of receipt of a notice from CDSS of a difference in finding to dispute each difference in finding identified by CDSS.
 - .62 The burden of proof rests with the CWD to provide documentation and verification of why the CWD's finding differs with CDSS' finding.
 - .63 CDSS will evaluate and review the documentation provided by the county. ~~If the finding is unfavorable to the CWD~~ Based on that review, CDSS will may use the CDSS findings/revisions, after a difference in findings and/or subsequent revisions to determine if a CWD failed to meet a federal requirement and to determine penalty pass-ons.

Authority cited: Sections 10541.7, 10544, 10553, 10554, 10809, 10852, and 10853, Welfare and Institutions Code.

Reference: Section 10540.5, 10541.7, 10544, and 11521.5, Welfare and Institutions Code; 45 CFR 261.2, 262.3, 262.5 and 265.3.

Adopt Section 91-120 to read:

91-120 CWD REPORTING FOR CDSS' APPEAL OF ANY
FEDERAL PENALTIES

91-120

- .1 When the state is notified that it is subject to a federal penalty, CDSS will exhaust all reasonable and available federal administrative remedies to avoid or minimize the amount of the penalty. CDSS shall require all CWDs that did not meet the federal requirement and request all other counties to provide sufficient and relevant information and documentation that may establish the basis for the state's appeal to the federal government. CWDs shall have at least 30 days from the date of notice from CDSS to provide this information. Examples of specific CWD circumstances that may be included as part of the state's appeal for having good cause for its failure to meet the work participation rate or to achieve TANF outcomes required by federal law include the following:
- .11 Natural disasters and other calamities (e.g. hurricanes, earthquakes, fire) whose disruptive impact was so significant as to cause the CWD's failure;
 - .12 Isolated problems of minimal impact that are not indicative of a systemic problem;
 - .13 Formally issued federal guidance that provided incorrect information resulting in the CWD's failure;
 - .14 Failure to meet WPRs is attributable to the CWD's provision of federally and state recognized good cause domestic violence waivers [i.e., it provides evidence that it achieved the applicable work rates when individuals receiving federally recognized good cause domestic violence waivers of work requirements, in accordance with the provisions at 45 Code of Federal Regulations Sections 260.54 (b) and 260.55, are removed from the calculations in Sections 261.22 (b) and 261.24 (b)]; and
 - .15 Failure to meet the work participation rates is attributable to the state's provision of assistance to refugees in federally approved alternative projects, in accordance with 45 Code of Federal Regulations Section 261.52(b)(2).

HANDBOOK BEGINS HERE

.2 PENALTY PASS-ON STEPS

Step 1: CDSS receives WPR failure notice from DHHS.

Step 2: CDSS notifies all counties that the state failed to meet the federal WPR and that a pass-on may be imposed (Section 91-130.21). This first notification shall require all counties that did not meet the WPR and ask all other counties to

provide sufficient and relevant information and documentation that may establish the basis for the state's appeal of the penalty. CWD's have 30 days from the date of the notice from CDSS to provide this information (Section 91-120.1).

- Step 3: If state appeal is unsuccessful, CDSS shall notify (2nd notification) in writing each county that contributed to the state's failure to meet the federal WPR requirement that a penalty pass-on may be imposed. The CWD is invited to present its arguments to appeal the penalty pass-on. Each CWD shall have 60 days from the date of CDSS' notification to provide the appeal information (Section 91-140.3). Concurrently, CDSS pursues administrative remedies with the federal government. No pass-on of penalty costs shall be applied during the CWD's appeal filing and determination period, until all state appeals and remedies have been exhausted, and DHHS determines the final federal fiscal penalty amount. (Section 91- 130.7).
- Step 4: Notification (3rd notification) of the counties of the final federal penalty amount, the amount of penalty for each county not meeting the required WPR, and/or the outcome of the county's appeal.
- Step 5: Reduction in the county's single allocation costs, which will occur in the state fiscal year immediately following CDSS final determination of the county's penalty pass-on amount. If a CWD is granted relief or waiver from its share of the penalty, that portion of the total penalty shall not be imposed on the other CWDs that failed to meet the WPR. (Section 91-140.42).

HANDBOOK ENDS HERE

Authority cited: Sections 10544, 10553, and 10554, Welfare and Institutions Code.

Reference: Sections 10540.5, and 10544, Welfare and Institutions Code; 45 CFR 261.2, 261.52, 262.1, 262.3, 262.4, and 262.5.

Adopt Section 91-130 to read:

First 15-day renote: Amend Section 91-130.3.33.332 and Handbook (e) through (h) to read:

91-130 PASS-ON OF FEDERAL PENALTIES

91-130

- .1 When DHHS imposes a TANF fiscal penalty on the state for failing to achieve TANF outcomes required by federal law, the penalty is subject to pass-on as provided in this section after exhaustion by CDSS of all reasonable and available federal administrative remedies. Federal penalties that are subject to pass-on include, but are not limited to, the following:
 - .11 Failure of the CWDs to meet the WPR required for the state under federal law.
- .2 When the state incurs a federal penalty for failure to meet the federal WPR, the CWDs' share of any federal penalty is 50 percent. The total amount of the CWDs' 50 percent share is subject to pass-on as provided in this section to those CWDs that failed to meet the federal requirements, less any amount reduced per Section 91-140.
 - .21 CDSS shall notify all the counties in writing that the state failed to meet the federal requirement and that a pass-on of penalty costs will be imposed.
 - .22 If the state fails only the all family (overall) participation rate or both the all family and two-parent rates, a CWD's penalty will be the penalty associated with not meeting the all family rate.
 - .23 If the state fails only the two-parent participation rate, a CWD's penalty will be the penalty associated with not meeting the two-parent rate.
- .3 CDSS shall determine that a CWD has failed to meet applicable federal requirements when a CWD fails, without good cause, to submit accurate, timely, and complete data used to measure work participation, as required by CDSS.
 - .31 Good causes shall include, but not be limited to, the lack of accurate, timely, and complete instructions from CDSS.
 - .32 CDSS shall use all available data, including data reported pursuant to Section 91-110, to determine whether a CWD has failed to meet federal and state requirements.
 - .33 CDSS shall determine the CWD annual WPR using CWD data collected in a manner consistent with federal TANF data reporting requirements. The WPR calculations shall be based on data from a monthly sample of CWD cases as specified in Section 91-110.
 - .331 A CWD's monthly all family (overall) WPR is equal to the number of TANF cases that include a work-eligible individual who meets the federal

participation requirements, divided by, the number of TANF cases that include a work-eligible individual, minus the number of such families that are in sanction in that month for no more than three of the preceding 12 months and minus the number of families with a single custodial parent who is caring for a child under age one and who does not meet TANF work participation requirements. The overall TANF all family work participation rate for a federal fiscal year (FFY) is the average of the CWD's overall TANF WPRs for each month in the FFY. The overall TANF work participation rate for each county will be the required federal rate, less the state's caseload reduction credit pursuant to federal regulations.

- .332 The two-parent family WPR shall apply to two-parent families with two work-eligible individuals. When one of the parents is a work-eligible individual with a disability, pursuant to federal data reporting rules, the family shall not be considered a two-parent family and shall not be included in either the numerator or denominator of the two-parent WPR.
- .333 A CWD's monthly two-parent family WPR is equal to the number of two-parent TANF family cases in which both parents are work-eligible individuals and together they meet the participation requirements, divided by, the number of two-parent family cases in which both parents are work-eligible individuals during the month, minus, the number of such two-parent families that are in sanction in that month and for no more than three of the preceding 12 months. The TANF two-parent family WPR for a FFY is the average of the CWD's two-parent TANF work participation rates for each month in the FFY. The two-parent TANF work participation rate for each county will be the required federal rate, less the state's caseload reduction credit pursuant to federal regulations.
- .334 A CWD that fails, without good cause, to send accurate, timely and complete data, as required by Sections 91-110.3 and 91-130.3 for any month in a given FFY, will have its work participation rate calculated for each month the data is missing by dividing the numerator of zero by the number of TANF cases during the month as determined by CDSS.

.4 When the state does not achieve the outcomes required by federal law and, after exhaustion of all reasonable and available federal administrative remedies, is subject to a fiscal penalty, the dollar amount of the federal penalty that shall be passed on to a CWD shall be determined as follows:

- .41 Determine the state and a CWD's share of the penalty by multiplying the dollar amount of the state's federal fiscal penalty by 50 percent,
- .42 Determine the number of cases a CWD needed to meet the minimum WPR required by subtracting the average monthly caseload of the CWD that met the

federally required WPR from the average monthly caseload required to meet the federal WPR,

- .43 Determine a CWD's penalty percentage dividing the number of cases needed to meet the minimum WPR of each failing CWD by the total number of the cases needed to meet the minimum WPR for all of the failing counties,
- .44 Determine a CWD's penalty pass-on amount by multiplying the dollar amount from the CWDs' 50 percent share of the federal fiscal penalty by the percentage from a CWD's penalty percentage.

HANDBOOK BEGINS HERE

(Aa) Determining the state and CWD's share of penalty:

Assume a federal penalty in the amount of \$186,650,000. The state share would be \$93,325,000, and the CWDs' share would be \$93,325,000.

State 50 percent share	\$93,325,000 (\$186,650,000 x 50%)
CWDs' 50 percent share	\$93,325,000 (\$186,650,000 x 50%)

(Bb) Determining the number of cases a CWD needed to meet the minimum WPR required:

Assume that four CWDs failed to meet the federal WPR requirement.

	<u>County A</u>	<u>County B</u>	<u>County C</u>	<u>County D</u>	<u>Total</u>
Cases subject to WPR	2,750	1,870	6,670	15,000	26,290
Cases required to meet WPR	1,375	935	3,335	7,500	13,145
Cases meeting WPR	1,250	370	1,670	5,000	8,290
Cases failing WPR	1,500	1,500	5,000	10,000	18,000
WPR	45.5%	19.8%	25.0%	33.3%	31.5%
(Required-Meeting)	(1375-1250)	(935-370)	(3,335-1,670)	(7,500 - 5,000)	
Number of cases needed to meet minimum WPR	125	565	1,665	2,500	4,855

Note: Required WPR is assumed to be 50 percent for purposes of this example. Actual required WPR may be lower than 50 percent based on the state's federally-approved caseload reduction credit for that FFY.

(Cc) Determining a CWD's penalty percentage:

	<u>County A</u>	<u>County B</u>	<u>County C</u>	<u>County D</u>	<u>Total</u>
Number of cases needed to meet minimum WPR, divided by the total needed to meet minimum WPR	125 4,855	565 4,855	1,665 4,855	2,500 4,855	4,855
Percent of total cases needed to meet minimum WPR*	2.6%	11.6%	34.3%	51.5%	100.0%

*NOTE: Percentages are rounded for example purposes only. Actual penalty pass-on determination will use actual numbers for calculation of penalty amount.

(Dd) Determining a CWD's penalty pass-on amount:

<u>CWDs that failed to meet requirement</u>	<u>CWDs' 50% share of federal penalty (Example A)</u>	<u>CWD's penalty percentage (Example D)</u>	<u>Dollar amount passed on to CWD</u>
1. County A	\$93,325,000	x 2.6%	= \$ 2,426,450
2. County B	\$93,325,000	x 11.6%	= \$ 10,825,700
3. County C	\$93,325,000	x 34.3%	= \$ 32,010,475
4. County D	\$93,325,000	x 51.5%	= \$ 48,062,375

Total Dollar Amount of Federal Penalty Passed on to CWDs \$ 93,325,000

(e) Using the example described in Handbook section about "Determining the state and CWD's share of penalty" the penalty relief amount for those counties that failed to meet the required WPR is described in the following:

- (1) Determining the number of cases that are not required to participate in work activities under the CalWORKs program rules but are required to participate in work activities under TANF rules. The four types of CalWORKs cases and the source of the county-level information follows:

- (A) CalWORKs cases where all work-required adults have a WTW sanction of more than 3 months in length and are not meeting TANF work requirements.
- (B) CalWORKs cases where all work-required adults have a CalWORKs exemption from work requirements and are not meeting TANF work requirements.
- (C) All CalWORKs Safety Net cases whether meeting or not meeting the TANF work requirements.
- (D) CalWORKs one-parent cases with a Good Cause exemption.
- (f) Determining the number of cases that are not required to participate in work activities under the CalWORKs program rules but are required to participate in work activities under TANF rules that exceed 50 percent of the TANF work-required cases in each county.

Assume that four CWDs failed to meet the federal WPR requirement.

	<u>County A</u>	<u>County B</u>	<u>County C</u>	<u>County D</u>	<u>Total</u>
<u>Cases subject to WPR</u>	<u>2,750</u>	<u>1,870</u>	<u>6,670</u>	<u>15,000</u>	<u>26,290</u>
<u>Cases required to meet WPR</u>	<u>1,375</u>	<u>935</u>	<u>3,335</u>	<u>7,500</u>	<u>13,145</u>
<u>TANF work-required cases but not CalWORKs*</u>	<u>1,550</u>	<u>630</u>	<u>1,250</u>	<u>7,900</u>	
<u>TANF work-required cases but not CalWORKs that exceeds 50%</u>	<u>(1,550-1,375)</u> <u>175</u>	<u>(630-935)</u> <u>0</u>	<u>(1,250-3,335)</u> <u>0</u>	<u>(7,900-7,500)</u> <u>400</u>	

*NOTE: TANF work-required cases but not CalWORKs equals the sum of cases in (e) (1) (A) through (D).

- (g) Determining a CWD's penalty relief amount:

	<u>County A</u>	<u>County B</u>	<u>County C</u>	<u>County D</u>	<u>Total</u>
<u>Number of cases needed to meet minimum WPR</u>	<u>125</u>	<u>565</u>	<u>1,665</u>	<u>2,500</u>	<u>4,855</u>

<u>TANF work-required cases</u> <u>But not CalWORKs that</u> <u>Exceeds 50%</u>	<u>175</u>	<u>0</u>	<u>0</u>	<u>400</u>
<u>Cases not meeting</u> <u>minimum WPR</u> <u>after adjustment</u>	<u>(125-175)</u> <u>0</u>	<u>(565-0)</u> <u>565</u>	<u>(1,665-0)</u> <u>1,665</u>	<u>(2,500-400)</u> <u>2,100</u>
<u>Adjusted percentage of total</u> <u>of cases not meeting</u> <u>minimum WPR</u> <u>divided by total cases</u>	<u>0</u> <u>4,855</u>	<u>565</u> <u>4,855</u>	<u>1,665</u> <u>4,855</u>	<u>2,100</u> <u>4,855</u>
<u>Adjusted percentage</u> <u>after relief</u>	<u>0%</u>	<u>11.6%</u>	<u>34.3%</u>	<u>43.3%</u>

(h) Determining a CWD's penalty pass-on relief amount:

<u>CWDs that failed</u> <u>to meet requirement</u>	<u>CWDs' 50% share</u> <u>of federal penalty</u>	<u>CWD's penalty</u> <u>adjusted percentage</u>	<u>Dollar amount</u> <u>passed on to CWD</u>	<u>Relief</u> <u>Amount*</u>
1. <u>County A</u>	<u>\$93,325,000</u>	<u>x</u> <u>0%</u> <u>=</u>	<u>\$ 0</u>	<u>\$ 2,426,450</u>
2. <u>County B</u>	<u>\$93,325,000</u>	<u>x</u> <u>11.6%</u> <u>=</u>	<u>\$ 10,825,700</u>	<u>\$0</u>
3. <u>County C</u>	<u>\$93,325,000</u>	<u>x</u> <u>34.3%</u> <u>=</u>	<u>\$ 32,010,475</u>	<u>\$0</u>
4. <u>County D</u>	<u>\$93,325,000</u>	<u>x</u> <u>43.3%</u> <u>=</u>	<u>\$ 40,409,725</u>	<u>\$7,652,650</u>

Total Dollar Amount of Federal Penalty Passed on to CWDs After Relief
\$ 83,245,900

*NOTE: The penalty relief amount is the difference in the amount of penalty calculated in
"Determining a CWD's share of penalty section" (a) above and the penalty amount calculated in
(h) above with adjusted percentage.

HANDBOOK ENDS HERE

- .5 CDSS shall notify in writing each county that contributed to the state's failure to meet the federal requirement that a pass-on of penalty costs may be imposed. The CWD is allowed to present its arguments to appeal the penalty pass-on pursuant to Section 91-140.
- .6 CDSS shall pass on federal penalties by reducing the county's reimbursement of the single allocation expenditures by the dollar amount of the penalty pass-on determined under this section, subject to any reduction pursuant to Section 91-140.

- .7 The reduction in the county's single allocation costs shall occur in the state fiscal year (SFY) immediately following CDSS' final determination of the county's penalty pass-on amount. CDSS shall determine the penalty pass-on amount when: (1) all state appeals and remedies have been exhausted; (2) any county appeal under Section 91-140 is resolved; and (3) DHHS determines the final federal fiscal penalty amount.
- .8 When a county's reimbursement of their single allocation expenditures is reduced by the state to offset the county's share of any federal penalty imposed, the county shall utilize county funds to replace the offset amount, so that total funding remains equal to the county's single allocation expenditures. These funds shall be in addition to the funds required to meet the county's MOE requirement.

Authority cited: Sections 10544, 10553, and 10554, Welfare and Institutions Code.

Reference: Sections 10540.5, 10544, 11521.5, and 15204.4 Welfare and Institutions Code; 45 CFR 261.20, 261.22, 261.24, 261.51, 262.1, and 262.3.

Adopt Section 91-140 to read:

First 15-day renote: Amend Section 91-140.4.41.414, Section 91-140.4.41.416, Section 91-140.5, Section 91-140.6, and 91-140.7 to read:

91-140 ~~NOTICE AND RELIEF FROM PASS-ON OF FEDERAL PENALTIES~~ 91-140

- .1 A CWD may appeal the pass-on of penalty costs based upon good cause, pursuant to this section, and may have their penalty reduced or waived.
- .2 No pass-on of penalty costs shall be applied during the CWD's appeal filing period, pursuant to this section, or until CDSS has made a decision on the CWD's appeal.
- .3 Each CWD shall have 60 days from the date of CDSS' notification to provide the appeal information, pursuant to this section.
- .4 CDSS shall determine which CWD-raised issues meet the criteria for potential penalty relief pursuant to this section and may be considered in reducing or eliminating potential CWD liability for the penalty pass-on.
 - .41 A CWD may be provided relief, in whole or in part, from a penalty if CDSS determines that there were circumstances beyond the control of the county, including but not limited to the following:
 - .411 Natural disasters and other calamities (e.g., hurricanes, earthquakes, fire) whose disruptive impact was so significant as to cause the CWD's failure for which the burden of proof rests with the CWD;
 - .412 Combination of work-required exempt, safety net, work-required sanction and good cause populations exceed 50 percent of the county's work-eligible population. This condition takes into account the differences between state and federal program requirements, and provides penalty relief based on the degree of success in meeting state participation requirement;
 - .413 County actions resulting from erroneous state written policy interpretations;
 - .414 Mistakes made by state staff in the establishment of the county work participation rate; ~~and/or~~
 - .415 The county significantly improves its county-specific work participation rate during the state's Corrective Action period and in accordance with CDSS' corrective action plan negotiated with the DHHS. Relief will be provided as follows:

- (a) If the state does not receive a penalty reduction for significant improvement, the county will receive a penalty reduction if there is a significant improvement defined as at least equal to or over 50 percent of the rate the county is required to meet after the state's federally-approved caseload reduction credit has been applied within the same period covered by the state's DHHS accepted corrective compliance plan.
- (b) If the state does not receive a penalty waiver, the county will receive a penalty waiver if the county meets federal WPR requirements within the same period covered by the state's DHHS accepted corrective compliance plan.

.416 Other circumstances the county believes were beyond their control.

- .42 When a CWD is granted relief from all or a portion of its share of the penalty, that portion of the total penalty shall not be imposed on the other CWDs that failed to meet the federal requirement.
- .5 CWDs that have submitted an appeal, pursuant to this section, shall be notified in writing within 60 days of any amounts that have been reduced or eliminated.
- .6 CDSS will notify the CWD in writing within 60 days of the outcome of its appeal.
- .7 ~~If the county has not submitted adequate information, as determined by CDSS, to establish reason for penalty relief, then relief shall not be granted.~~ If CDSS determines that the county has not provided sufficient relevant information and documentation to establish the reason(s) for penalty relief, then relief shall not be granted.

Authority cited: Sections 10544, 10553, and 10554, Welfare and Institutions Code.

Reference: Section 10544, Welfare and Institutions Code; 45 CFR 261.52, 262.4, 262.5, 262.6, and 262.7.

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2010-0413-03	REGULATORY ACTION NUMBER 2010-0721-015	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

 AGENCY WITH RULEMAKING AUTHORITY
 California Department of Social Services

 AGENCY FILE NUMBER (if any)
 ORD# 1008-08

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE ☐ Notice re Proposed ☐ Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn		NOTICE REGISTER NUMBER 2010-#18-2	PUBLICATION DATE 4-30-2010

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Homeless Assistance Domestic Violence Provisions		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2009-0304-01E	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT	
TITLE(S) MPP		AMEND 44-211	
		REPEAL	
3. TYPE OF FILING			
☒ Regular Rulemaking (Gov. Code §11346) ☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. ☐ Emergency Readopt (Gov. Code, §11346.1(h)) ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) ☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) ☐ File & Print ☐ Print Only ☐ Emergency (Gov. Code, §11346.1(b)) ☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) ☐ Other (Specify) _____			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1) N/A			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
☒ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☐ §100 Changes Without Regulatory Effect ☐ Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
☒ Department of Finance (Form STD. 399) (SAM §6660) ☐ Fair Political Practices Commission ☐ State Fire Marshal ☐ Other (Specify) _____			
7. CONTACT PERSON Zaid Dominguez, Manager		TELEPHONE NUMBER (916) 657-2586	FAX NUMBER (Optional) (916) 654-3286
		E-MAIL ADDRESS (Optional) zdominguez@dss.ca.gov	

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

 SIGNATURE OF AGENCY HEAD OR DESIGNEE

 TYPED NAME AND TITLE OF SIGNATORY
 John A. Wagner, Director

 DATE
 4/8/10

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

AUG 26 2010

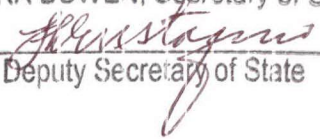
Office of Administrative Law

REGULAR

FILED

In the office of the Secretary of State of the State of California

AUG 26 2010

At 2:29 O'Clock P.M.
DEBRA BOWEN, Secretary of StateBy 
Deputy Secretary of State

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 01-09) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

Use the form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the name of the agency with the rulemaking authority and agency's file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations and the statement of reasons. Upon receipt of the notice, OAL will place a number in the box marked "Notice File Number." If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Gov. Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the OAL file number(s) of all previously disapproved or withdrawn filings in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). Submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Gov. Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Gov. Code §11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A and insert the OAL file number(s) for the original emergency filing(s) in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B, including the signed certification, on the form that was previously submitted with the notice. If a new STD. 400 is used, fill in Part B including the signed certification, and enter the previously assigned notice file number in the box marked "Notice File Number" at the top of the form. The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for re adoption, use a new STD. 400 and fill out Part B, including the signed certification, and insert the OAL file number(s) related to the original emergency filing in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B).

CHANGES WITHOUT REGULATORY EFFECT

When submitting changes without regulatory effect pursuant to California Code of Regulations, Title 1, section 100, complete Part B, including marking the appropriate box in both B.3. and B.5.

ABBREVIATIONS

Cal. Code Regs. - California Code of Regulations
Gov. Code - Government Code
SAM - State Administrative Manual

For questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law Reference Attorney at (916) 323-6815.

Amend Section 44-211.54 to read:

44-211 SPECIAL NEEDS IN CALWORKS

44-211

.5 Homeless Assistance (Continued)

.54 Once-In-A-Lifetime Homeless Exceptions

.541 (Continued)

.542 The AU shall provide verification of the exceptional circumstance(s), described in Section 44-211.541(b), which resulted in the AU's homelessness. ~~These~~The circumstances listed under Section 44-211.541(b)(2) and (b)(3) shall be verified through a third-party governmental or private health and human services agency. Domestic violence circumstances may be verified by sworn statement as provided in Section 44-211.543. (Continued)

(b) (Continued)

(1) Domestic violence-copies of records or reports from police departments; medical facilities; battered women's shelters signed by an administrator, counselor or designated staff member; and Adult and Child Protective Services, Family Services Bureau, Crisis Counseling Services agencies. These types of third party verifications are acceptable when the county has determined that a sworn statement by the victim is not credible. (Continued)

.543 Sworn statement by a victim of past or present domestic abuse shall be sufficient to verify the AU meets a domestic violence exception unless the county documents in writing an independent and reasonable basis to find the applicant or recipient not credible, in accordance with domestic abuse regulations found at MPP Section 42-715.12.

(a) A sworn statement by the victim shall be acceptable verification to meet an exception for up to two periods of temporary and two payments of permanent homeless assistance.

(b) If the county establishes the applicant or recipient is not credible, the county shall obtain third party verification of domestic violence pursuant to Section 44-542(b)(1).

.544 A county shall immediately inform the victim who verifies domestic violence with a sworn statement of the availability of domestic violence counseling and services, and shall refer the victim to services upon request.

.545 A county may require an applicant/recipient who verifies domestic violence by a sworn statement to participate in a homelessness avoidance case plan.

- (a) If a county requires an applicant/recipient who verifies domestic violence by a sworn statement to participate in a homelessness avoidance case plan, the plan shall include the provision of domestic violence services, if appropriate.
- (b) If an applicant/recipient seeking a once-in-a-lifetime exception for homeless assistance based on domestic violence has previously received homeless avoidance service based on domestic violence, the county shall review whether services were offered to the applicant/recipient and consider what additional services would assist the recipient in leaving the domestic violence situation.

.543.546 (Continued)

Authority Cited: Sections 10553, 10554, 11209, and 11450(g), Welfare and Institutions Code; ~~and Statutes of 1995, Chapter 307, Section 24 (AB 908).~~

Reference: Sections 11056, 11265.1, 11265.2, 11265.3, 11266(a)(2), 11271, 11272, 11273, and 11273(b), 11450(a)(1), (b), and (c), 11450(f)(2)(A)(i), 11450(f)(2)(C), 11450(f)(2)(E)(i), (ii), ~~and (iii), (v), and (vi).~~ 11450.5, 11452.018(a), and 11453.2, Welfare and Institutions Code; 45 CFR 206.10(a)(1)(ii), 45 CFR 206.10(a)(8), 45 CFR 233.10(a)(1)(iv), 45 CFR 233.20(a)(2)(v)(A), 45 CFR 234.11, 45 CFR 234.60, ~~45 CFR 234.60(a)(2)-(11), and 45 CFR 400.52;~~ and 42 U.S.C.A., Section 606(b).

NOTICE PUBLICATION/REGULATIONS SUBMISSION

REGULAR

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2010-0316-02	REGULATORY ACTION NUMBER 2010-0726025	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

In the office of the Secretary of State of the State of California

SEP - 3 2010

At 1:18 O'Clock P M.
DEBRA BOWEN, Secretary of StateBy [Signature]
Deputy Secretary of StateAGENCY WITH RULEMAKING AUTHORITY
California Department of Social ServicesAGENCY FILE NUMBER (if any)
ORD# 0709-07

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE ☐ Notice re Proposed Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn		NOTICE REGISTER NUMBER 2010 #137	PUBLICATION DATE 3-26-2010

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Reasonable & Prudent Parent Standard		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) Z-2010-0316-02	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT 84067 AMEND 83064, 84001, 84076, 84079, 84087.2, 84088, 84090, 86065, 88065, 89405 REPEAL	
TITLE(S) Title 22/MPP			
3. TYPE OF FILING			
☒ Regular Rulemaking (Gov. Code §11346) ☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. ☐ Emergency Readopt (Gov. Code, §11346.1(h)) ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) ☐ Print Only ☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) ☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) ☐ File & Print ☐ Other (Specify) _____ ☐ Emergency (Gov. Code, §11346.1(b))			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
☒ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☐ \$100 Changes Without Regulatory Effect ☐ Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
☒ Department of Finance (Form STD. 399) (SAM §6660) ☐ Fair Political Practices Commission ☐ State Fire Marshal ☐ Other (Specify) _____			
7. CONTACT PERSON Kenneth Jennings		TELEPHONE NUMBER 916-651-8862	FAX NUMBER (Optional) 916-654-3286
		E-MAIL ADDRESS (Optional) kenneth.jennings@dss.ca.gov	

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

TYPED NAME AND TITLE OF SIGNATORY
JOHN A. WAGNER, DIRECTOR

7/20/10

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

SEP 03 2010

Office of Administrative Law

Small Family Homes

Amend Section 83064 to read:

83064 LICENSEE DUTIES AND RESPONSIBILITIES (Continued)

83064

- (f) The licensee shall ensure that individuals, who provide care and supervision of a child in a facility, have training on the existing laws and procedures regarding the safety of foster youth at school as contained in the California Student Safety and Violence Prevention Act of 2000.

HANDBOOK BEGINS HERE

Health and Safety Code section 1529.2(b)(3)(G) provides:

"Basic instruction on the existing laws and procedures regarding the safety of foster youth at school and the ensuring of a harassment and violence free school environment contained in the California Student Safety and Violence Prevention Act of 2000 (Article 3.6 (commencing with Section 32228) of Chapter 2 of Part 19 of Division 1 of Title 1 of the Education Code)."

Education Code section 32228 provides:

"(a) It is the intent of the Legislature that public schools serving pupils in any of grades 8 to 12, inclusive, have access to supplemental resources to establish programs and strategies that promote school safety and emphasize violence prevention among children and youth in the public schools.

(b) It is also the intent of the Legislature that public schools have access to supplemental resources to combat bias on the basis of race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, as defined in subdivision (q) of Section 12926 of the Government Code, and to prevent and respond to acts of hate violence and bias related incidents. Sexual orientation shall not include pedophilia.

(c) It is further the intent of the Legislature that schoolsites receiving funds pursuant to this article accomplish all of the following goals:

(1) Teach pupils techniques for resolving conflicts without violence.

(2) Train school staff and administrators to support and promote conflict resolution and mediation techniques for resolving conflicts between and among pupils.

(3) Reduce incidents of violence at the schoolsite with an emphasis on prevention and early detection.

(4) Provide age-appropriate instruction in domestic violence prevention, dating violence prevention, and interpersonal violence prevention."

HANDBOOK ENDS HERE

Authority cited: Section 1530, Health and Safety Code.

Reference: Section 51, Civil Code; Sections 1501, 1529.1, 1529.2, 1530.91, 1531, and 1562, Health and Safety Code; Sections 366.1, 366.21, and 16001.9, Welfare and Institutions Code; and California Student Safety and Violence Prevention Act of 2000 (Article 3.6 (commencing with Section 32228) of Chapter 2 of Part 19 of Division 1 of Title 1 of the Education Code.

Group Homes

Amend Section 84001 to read:

84001 DEFINITIONS

84001

In addition to Section 80001, the following shall apply: (Continued)

- (r) (1) "Reasonable and Prudent Parent Standard" means the standard characterized by careful and sensible parental decisions that maintain the child's health, safety, and best interest, that an administrator or facility manager, or his or her responsible designee, shall use when determining whether to allow a child in care to participate in extracurricular, enrichment and social activities.

~~(1)~~(2) (Continued)

~~(2)~~(3) (Continued)

Authority cited: Section 17730, Welfare and Institutions Code and Sections 1522.41(j), 1530, 1530.8, and 1530.9, Health and Safety Code.

Reference: Sections 1501, 1502, 1503, 1507, 1522.4, 1522.41, 1522.41(j), 1530.8, and 1531, Health and Safety Code; and Sections 362.04(a)(2), 362.05(a), 727(a)(4)(A), 11331.5(d), 11406(c), 17710(a), (d), (g), and (h), 17731, and 17736(a) and (b), Welfare and Institutions Code; and 45 CFR Section 1351.1(k).

Adopt Section 84067 to read:

84067 REASONABLE AND PRUDENT PARENT STANDARD

84067

- (a) The administrator or facility manager, or his or her responsible designee, shall apply the "Reasonable and Prudent Parent Standard," as defined in Section 84001(r)(1) and specified in Welfare and Institutions Code sections 362.05 and 727, in determining whether to allow a child to participate in age-appropriate, developmentally-appropriate extracurricular, enrichment, and social activities.
- (b) When applying the "Reasonable and Prudent Parent Standard," the administrator or facility manager, or his or her responsible designee, shall consider:
 - (1) The child's age, maturity, and developmental level to ensure the overall health and safety of the child is maintained.
 - (2) The potential risk factors and the appropriateness of the extracurricular, enrichment, and social activity.
 - (3) The best interest of the child based on information known by the administrator or facility manager, or his or her designee.

HANDBOOK BEGINS HERE

The "Reasonable and Prudent Parent Standard" allows every child in placement the opportunity to participate in age-appropriate, developmentally-appropriate extracurricular, enrichment, and social activities. The administrator or facility manager, or his or her responsible designee, is encouraged to consult with social work or treatment staff members who are most familiar with the child.

The administrator or facility manager, or his or her responsible designee, is encouraged to document the type of activity and steps taken to ensure the appropriateness of the activity. Documentation provides evidence that staff took the necessary precautions to make informed, reasonable, and prudent decisions that ensures the health and safety of the child.

Welfare and Institutions Code section 362.05 provides:

"(a) Every child adjudged a dependent child of the juvenile court shall be entitled to participate in age-appropriate extracurricular, enrichment, and social activities. No state or local regulation or policy may prevent, or create barriers to, participation in those activities. Each state and local entity shall ensure that private agencies that provide foster care services to dependent children have policies consistent with this section and that those agencies promote and protect the ability of dependent children to participate in age-appropriate extracurricular, enrichment, and social activities. A group home administrator, a facility manager, or his or her responsible designee, and a caregiver, as defined in paragraph (1) of subdivision (a) of Section 362.04, shall use a reasonable and prudent parent standard, as defined in paragraph (2) of subdivision (a) of Section 362.04,

in determining whether to give permission or a child residing in foster care to participate in extracurricular, enrichment, and social activities. A group home administrator, a facility manager, or his or her responsible designee, and a caregiver shall take reasonable steps to determine the appropriateness of the activity in consideration of the child's age, maturity, and developmental level.

(b) A group home administrator or a facility manager, or his or her responsible designee, is encouraged to consult with social work or treatment staff members who are most familiar with the child at the group home in applying and using the reasonable and prudent parent standard."

Welfare and Institutions Code section 727 provides in part:

"(a)(4)(A) Every child adjudged a ward of the juvenile court who is residing in a placement as defined in paragraphs (1) to (3), inclusive, shall be entitled to participate in age-appropriate extracurricular, enrichment, and social activities. No state or local regulation or policy may prevent, or create barriers to, participation in those activities....

(B) A group home administrator or a facility manager, or his or her responsible designee, is encouraged to consult with social work or treatment staff members who are most familiar with the child at the group home in applying and using the reasonable and prudent parent standard."

"Reasonable and Prudent Parent Standard" is referenced in the following:

- (1) Section 84001, Definitions.
- (2) Section 84067, Reasonable and Prudent Parent Standard.
- (3) Section 84076, Food Service.
- (4) Section 84079, Planned Activities.
- (5) Section 84087.2, Outdoor Activity Space.
- (6) Section 84088, Fixtures, Furniture, Equipment, and Supplies.

HANDBOOK ENDS HERE

- (c) Application of the "Reasonable and Prudent Parent Standard" shall not result in the denial of the rights of a child as specified in Welfare and Institutions Code section 16001.9, or contradict court orders or the needs and services plan of the child.

Authority cited: Sections 1501, 1530 and 1531, Health and Safety Code.

Reference: Sections 362.04, 362.05, 727, and 16001.9, Welfare and Institutions Code; Assembly Bill 2096 (Chapter 483 Statutes of 2008).

Amend Section 84076 to read:

84076 FOOD SERVICE (Continued)

84076

- (c)(5) Kitchen appliances and utensils shall be made accessible to a child when he or she is participating in age-appropriate, and developmentally-appropriate activities related to food preparation, cooking, and other related kitchen and dining activities. The administrator or facility manager, or his or her responsible designee, shall:
- (A) Apply the "Reasonable and Prudent Parent Standard," as specified in Section 84067, when allowing a child to use kitchen appliances and utensils for food preparation and cooking.
 - (B) Ensure that the child is properly trained to safely use the kitchen appliances and utensils.
 - (C) Not require a child to participate in meal preparation.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501 and 1531, Health and Safety Code; Sections 361.2(j)(2), 727, and 16001.9, Welfare and Institutions Code.

Amend Section 84079 to read:

84079 PLANNED ACTIVITIES (Continued)

84079

(c) The licensee ~~administrator or facility manager, or his or her designee, shall: permit children to attend and participate in community activities, including but not limited to the following:~~

- (1) ~~Worship services and activities of the child's choice. Allow a child to participate in age-appropriate and developmentally-appropriate extracurricular, enrichment, and social activities.~~
- (2) ~~Community events, including but not limited to concerts, tours, dances, plays, and celebrations of special events. Apply the "Reasonable and Prudent Parent Standard" as specified in Section 84067, when determining whether to allow a child to participate in age-appropriate and developmentally-appropriate extracurricular, enrichment, and social activities.~~
- (3) ~~The YMCA, YWCA, and Boy and Girl Scouts~~

HANDBOOK BEGINS HERE

Activities may include but are not limited to the following:

- (1) Worship services and activities of the child's choice.
- (2) Community events, including but not limited to concerts, tours, dances, plays, and celebrations of special events.
- (3) The YMCA, YWCA, Boy Scouts, and Girl Scouts.
- (4) Sports.
- (5) School activities such as band, dances, and field trips.
- (6) Leisure time such as bike riding, socializing with friends, shopping, and going to the movies.
- (7) 4-H activities.
- (8) Sleepover with friends.
- (9) Having visitors in the home.
- (10) Use of computer equipment.
- (A) Computer equipment made available to other children in the household should also be available to a "child" of similar age and maturity.

(B) The caregiver is not required to incur a cost to provide computer availability.

HANDBOOK ENDS HERE

(d) (Continued)

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501 and 1531, Health and Safety Code; Sections 361.2(j)(2), 362.04, 362.05, 727, and 16001.9, Welfare and Institutions Code; Assembly Bill 2096, (Chapter 483 Statutes of 2008).

Amend Section 84087.2 to read:

84087.2 OUTDOOR ACTIVITY SPACE

84087.2

(a) Children shall have access to safe outdoor activity space. (Continued)

(5) The administrator or facility manager, or his or her responsible designee, shall apply the "Reasonable and Prudent Parent Standard," as specified in Section 84067, when determining whether to allow a "child" to have access to fish ponds, fountains, and similar bodies of water.

(A) The licensee shall ensure safeguards that include but are not limited to: familiarity of the surroundings, and staff trained in water safety as specified in Section 80065(e)(2). (Continued)

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501 and 1531, Health and Safety Code; Sections 361.2(j)(2), 362.04, 362.05, and 727, Welfare and Institutions Code.

Amend Section 84088 to read:

84088 FIXTURES, FURNITURE, EQUIPMENT, AND SUPPLIES (Continued) 84088

(d) The administrator or facility manager, or his or her responsible designee, shall:

(1) Apply the "Reasonable and Prudent Parent Standard," as specified in Section 84067, when determining whether a child should have access to disinfectants and cleaning solutions; and

(2) Ensure that the child is properly trained to safely use disinfectants and cleaning solutions.

~~(d)~~(e) (Continued)

~~(e)~~(f) (Continued)

~~(f)~~(g) (Continued)

~~(g)~~(h) (Continued)

~~(h)~~(i) (Continued)

~~(i)~~(j) (Continued)

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501 and 1531, Health and Safety Code; Sections 361.2(j)(2), 362.04, 362.05, and 727, Welfare and Institutions Code.

Amend Section 84090 to read:

84090 INITIAL CERTIFICATION TRAINING PROGRAM
APPROVAL REQUIREMENTS (Continued)

84090

- (h) The initial Certification Training Program shall consist of the following components:
- (1) A minimum of forty (40) classroom hours on a uniform Core of Knowledge with the following basic curriculum: (Continued)
- (H) ~~Six (6)~~ Five (5) hours of instruction on admission, retention, and assessment procedures, and nondiscrimination policies, including the child's right to fair and equal access to all available services, placement, care, treatment and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status. (Continued)
- (J) One (1) hour of instruction on existing laws and procedures regarding the safety of foster youth at school as contained in the California Student Safety and Violence Prevention Act of 2000.

HANDBOOK BEGINS HERE

~~(J) Reserved~~

Health and Safety Code section 1522.41(c)(1)(J) provides in pertinent part:

"Basic instruction on the existing laws and procedures regarding the safety of foster youth at school and the ensuring of a harassment and violence free school environment contained in the California Student Safety and Violence Prevention Act of 2000...."

Education Code section 32228 provides:

"(a) It is the intent of the Legislature that public schools serving pupils in any of grades 8 to 12, inclusive, have access to supplemental resources to establish programs and strategies that promote school safety and emphasize violence prevention among children and youth in the public schools.

(b) It is also the intent of the Legislature that public schools have access to supplemental resources to combat bias on the basis of race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, as defined in subdivision (q) of Section 12926 of the Government Code, and to prevent and respond to acts of hate violence and bias related incidents. Sexual orientation shall not include pedophilia.

(c) It is further the intent of the Legislature that schoolsites receiving funds pursuant to this article accomplish all of the following goals:

- (1) Teach pupils techniques for resolving conflicts without violence.
- (2) Train school staff and administrators to support and promote conflict resolution and mediation techniques for resolving conflicts between and among pupils.
- (3) Reduce incidents of violence at the schoolsite with an emphasis on prevention and early detection.
- (4) Provide age-appropriate instruction in domestic violence prevention, dating violence prevention, and interpersonal violence prevention."

~~(K) Core of Knowledge information will be derived from a variety of sources governing the operation of licensed group homes, including but not limited to, pertinent statutory provisions of the Health and Safety Code, Welfare and Institutions Code, Education Code, Business and Professions Code, Penal Code, and applicable provisions of Title 22 of the California Code of Regulations, Sections 80000 et. Seq.~~

HANDBOOK ENDS HERE

(2) (Continued)

Authority cited: Sections 1522.41(j) and 1530, Health and Safety Code.

Reference: Section 1 of Assembly Bill (AB) 458 (Chapter 331, Statutes of 2003); Sections 1501, 1522.41, and 1531, Health and Safety Code; and Section 16001.9, Welfare and Institutions Code; and Article 3.6 (commencing with Section 32228) of Chapter 2 of Part 19 of Division 1 of Title 1 of the Education Code.

Transitional Housing Placement Program

Amend Section 86065 to read:

86065 PERSONNEL REQUIREMENTS

86065

(a) In addition to Section 80065, excluding Subsections 80065(c) and (e) the following shall apply: (Continued)

- (7) THPP personnel, who provide care and supervision of foster youth, shall be trained on existing laws and procedures regarding the safety of foster youth at school as specified in the California Student Safety and Violence Prevention Act of 2000.

HANDBOOK BEGINS HERE

Education Code section 32228 provides:

"(a) It is the intent of the Legislature that public schools serving pupils in any of grades 8 to 12, inclusive, have access to supplemental resources to establish programs and strategies that promote school safety and emphasize violence prevention among children and youth in the public schools.

(b) It is also the intent of the Legislature that public schools have access to supplemental resources to combat bias on the basis of race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, as defined in subdivision (q) of Section 12926 of the Government Code, and to prevent and respond to acts of hate violence and bias related incidents. Sexual orientation shall not include pedophilia.

(c) It is further the intent of the Legislature that schoolsites receiving funds pursuant to this article accomplish all of the following goals:

(1) Teach pupils techniques for resolving conflicts without violence.

(2) Train school staff and administrators to support and promote conflict resolution and mediation techniques for resolving conflicts between and among pupils.

(3) Reduce incidents of violence at the schoolsite with an emphasis on prevention and early detection.

(4) Provide age-appropriate instruction in domestic violence prevention, dating violence prevention, and interpersonal violence prevention."

HANDBOOK ENDS HERE

Authority cited: Sections 1530 and 1559.110, Health and Safety Code.

Reference: Section 51, Civil Code; Sections 1501, 1506, 1529.2, 1531, and 1559.115, Health and Safety Code; ~~and~~ Sections 16001.9 and 16522.1, Welfare and Institutions Code; and Article 3.6 (commencing with Section 32228) of Chapter 2 of Part 19 of Division 1 of Title 1 of the Education Code.

Foster Family Agencies

Amend Section 88065 to read:

88065 PERSONNEL REQUIREMENTS

88065

(a) In addition to Section 80065, excluding Sections 80065(e), (f) and (j), the following shall apply: (Continued)

(6) All foster family agency personnel, who provide care and supervision of a child, shall be trained on the existing laws and procedures regarding the safety of foster youth at school as contained in the California Student Safety and Violence Prevention Act of 2000.

~~(6)~~(7) (Continued)

~~(7)~~(8) (Continued)

~~(8)~~(9) (Continued)

~~(9)~~(10) (Continued)

~~(10)~~(11) (Continued)

HANDBOOK BEGINS HERE

Education Code section 32228 provides:

"(a) It is the intent of the Legislature that public schools serving pupils in any of grades 8 to 12, inclusive, have access to supplemental resources to establish programs and strategies that promote school safety and emphasize violence prevention among children and youth in the public schools.

(b) It is also the intent of the Legislature that public schools have access to supplemental resources to combat bias on the basis of race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, as defined in subdivision (q) of Section 12926 of the Government Code, and to prevent and respond to acts of hate violence and bias related incidents. Sexual orientation shall not include pedophilia.

(c) It is further the intent of the Legislature that schoolsites receiving funds pursuant to this article accomplish all of the following goals:

(1) Teach pupils techniques for resolving conflicts without violence.

(2) Train school staff and administrators to support and promote conflict resolution and mediation techniques for resolving conflicts between and among pupils.

(3) Reduce incidents of violence at the schoolsite with an emphasis on prevention and early detection.

(4) Provide age-appropriate instruction in domestic violence prevention, dating violence prevention, and interpersonal violence prevention."

HANDBOOK ENDS HERE

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 11166.5 and 11174.1, Penal Code; ~~and~~ Sections 1529.2, 1530, and 1540.2, Health and Safety Code; and Article 3.6 (commencing with Section 32228) of Chapter 2 of Part 19 of Division 1 of Title 1 of the Education Code.

Foster Family Homes

Amend Section 89405 to read:

89405 TRAINING REQUIREMENTS

89405

- (a) The caregiver is required to complete training as specified in Health and Safety Code section 1529.2, subsection (b).
- (1) The following courses, seminars, conferences, or training accepted by the licensing agency to meet the training requirements in Health and Safety Code section 1529.2, subsections (b)(3) and (4) include, but are not limited to: (Continued)
- (H) Caregiver rights, responsibilities, and grievance process, ~~and~~
- (I) Licensing and placement regulations, ~~and~~
- *(J) Existing laws and procedures regarding the safety of foster youth at school as specified in the California Student Safety and Violence Prevention Act of 2000.

HANDBOOK BEGINS HERE

Health and Safety Code section 1529.2(b)(3)(G) provides:

"Basic instruction on the existing laws and procedures regarding the safety of foster youth at school and the ensuring of a harassment and violence free school environment contained in the California Student Safety and Violence Prevention Act of 2000, Article 3.6 (commencing with Section 32228) of Chapter 2 of Part 19 of Division 1 of Title 1 of the Education Code."

Education Code section 32228 provides:

"(a) It is the intent of the Legislature that public schools serving pupils in any of grades 8 to 12, inclusive, have access to supplemental resources to establish programs and strategies that promote school safety and emphasize violence prevention among children and youth in the public schools.

(b) It is also the intent of the Legislature that public schools have access to supplemental resources to combat bias on the basis of race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, as defined in subdivision (q) of Section 12926 of the Government Code, and to prevent and respond to acts of hate violence and bias related incidents. Sexual orientation shall not include pedophilia.

(c) It is further the intent of the Legislature that schoolsites receiving funds pursuant to this article accomplish all of the following goals:

- (1) Teach pupils techniques for resolving conflicts without violence.

(2) Train school staff and administrators to support and promote conflict resolution and mediation techniques for resolving conflicts between and among pupils.

(3) Reduce incidents of violence at the schoolsite with an emphasis on prevention and early detection.

(4) Provide age-appropriate instruction in domestic violence prevention, dating violence prevention, and interpersonal violence prevention."

HANDBOOK ENDS HERE

(b) (Continued)

Authority cited: Sections 1530 and 1530.5, Health and Safety Code; Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1506, 1506.7, 1529.1, 1529.2, 1531, and 1562, Health and Safety Code; Sections 16001.9, Welfare and Institutions Code; and Article 3.6 (commencing with Section 32228) of Chapter 2 of Part 19 of Division 1 of Title 1 of the Education Code.

NOTICE PUBLICATION/REGULATIONS SUBMISSION

CERT

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2009-1110-02	REGULATORY ACTION NUMBER 2010-0723-01C	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

AGENCY WITH RULEMAKING AUTHORITY
California Department of Social Services

AGENCY FILE NUMBER (If any)
ORD # 0508-03

ORIGINAL

FILED

In the office of the Secretary of State of the State of California

SEP - 3 2010

At 1:16 O'Clock P M.
DEBRA BOWEN, Secretary of State
By [Signature]
Deputy Secretary of State

2010 JUL 23 AM 8:15

OFFICE OF
ADMINISTRATIVE LAW

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE ☐ Notice re Proposed Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn		NOTICE REGISTER NUMBER 2009, 11492	PUBLICATION DATE 11-20-2009

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Division 31, Grievance Review Procedures		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2009-0819-02E, 2010-0218-02EE, and 2010-0506-01EE	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT 31-021 AMEND 31-003, 31-410, and 31-501 REPEAL	
TITLE(S) MPP			
3. TYPE OF FILING			
☐ Regular Rulemaking (Gov. Code §11346) ☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4) ☐ Emergency (Gov. Code, §11346.1(b)) ☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. ☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) ☐ Emergency Readopt (Gov. Code, §11346.1(h)) ☐ File & Print ☐ Other (Specify) _____ ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) ☐ Print Only			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1) 3/19/2010 - 4/2/2010 per agency memo 9-3-10			
5. EFFECTIVE DATE OF CHANGES (Gov. Code §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100) ☐ Effective 30th day after filing with Secretary of State ☒ Effective on filing with Secretary of State ☐ \$100 Changes Without Regulatory Effect ☐ Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY ☒ Department of Finance (Form STD. 399) (SAM §6660) ☐ Fair Political Practices Commission ☐ State Fire Marshal ☐ Other (Specify) _____			
7. CONTACT PERSON Zaid Dominguez		TELEPHONE NUMBER 657-2586	FAX NUMBER (Optional) 654-3286
		E-MAIL ADDRESS (Optional)	

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

TYPED NAME AND TITLE OF SIGNATORY
JOHN A. WAGNER, DIRECTOR

For use by Office of Administrative Law (OAL) only

Amend Section 31-003 to read:

Post-Hearing: Amend Section 31-003 to read:

31-003 DEFINITIONS – FORMS (Continued)

31-003

(s) (1) (Continued)

- (2) SOC 832 (Rev. ~~5/08~~ 3/10) Notice of Child Abuse Central Index Listing, hereby incorporated by reference, is used for the purpose of notifying individuals that their name has been submitted to the Department of Justice (DOJ) for listing on the Child Abuse Central Index (CACI).
- (3) SOC 833 (Rev. ~~3/08~~ 3/10) Grievance Procedures for Challenging Reference to the Child Abuse Central Index, hereby incorporated by reference, is used for the purpose of informing individuals of the requirements for requesting a grievance hearing, as well as providing information regarding timeframes and all required components of a grievance hearing.
- (4) SOC 834 (Rev. ~~6/08~~ 3/10) Request for Grievance Hearing, hereby incorporated by reference, is used for the purpose of providing individuals with a mechanism for requesting a grievance hearing to challenge their listing on the CACI.

(t) (Continued)

Authority Cited: Sections 10553, 10554, and 10850.4, Welfare and Institutions Code.

Reference: *Gomez v. Saenz* Settlement Agreement and Court Order, Case No: BC284896;
Section 11169, Penal Code and Sections 827 and 10850.4, Welfare and
Institutions Code and 42 USC 5106.

Adopt Section 31-021 to read:

Post-Hearing: Adopt Section 31-021 to read:

31-021 CHILD ABUSE CENTRAL INDEX (CACI) GRIEVANCE PROCEDURES

31-021

- .1 Within five (5) business days of submitting an individual's name to the Department of Justice (DOJ) for listing on the CACI pursuant to Section 31-501.4, the following forms shall be sent to the individual at his/her last known address:
 - .11 The Notice of Child Abuse Central Index Listing (SOC 832),
 - .12 Grievance Procedures for Challenging Reference to the Child Abuse Central Index (SOC 833), and
 - .13 Request for Grievance Hearing (SOC 834).
- .2 Request for a Grievance Hearing
 - .21 The complainant shall send by mail, fax or in person, a completed SOC 834 form, or a written request for grievance hearing that includes all of the information required under Section 31-021.213, signed by the complainant to request a grievance hearing. This must be received by the county within thirty (30) calendar days of the date of notice. Failure to send the completed SOC 834 form or written request within the prescribed timeframe shall constitute a waiver of the right to a grievance hearing.
 - .211 For purposes of this section, a complainant is deemed aware of the county decision when the county mails the notification as specified in Section 31-021.1 to the complainant's last known address.
 - .212 For individuals to whom no prior notification was mailed regarding his or her submission to the CACI, the individual shall file the completed SOC 834 form within thirty (30) calendar days of becoming aware that he or she is listed in CACI and becoming aware of the grievance process.
 - .213 A completed SOC 834 form or a written request for grievance hearing shall include the referral number, name of county, complete contact information, date of birth, a reason for grievance which the complainant believes provides a basis for reversal of the county decision, and if represented, the name of the representative and contact information for the representative.
 - .214 The county shall assist the complainant in preparation of the request for grievance hearing, pursuant to section .213 above, if assistance is requested.
- .3 The following grievance hearing procedures shall only apply for challenges to county submission for listing individuals on the CACI.

- .31 A grievance hearing request shall be denied when a court of competent jurisdiction has determined that the suspected child abuse and/or neglect has occurred, or when the allegation of child abuse and/or neglect resulting in the referral to CACI is pending before the court.
 - .311 If Section 31-021.31 no longer applies, a complainant can submit the completed SOC 834 form or written request within thirty (30) calendar days of the conclusion of the judicial matter to request a grievance hearing.
 - .312 Timeframes for conducting and completing a grievance hearing will remain as specified in Sections 31-021.4 through .85.
- .4 The grievance hearing shall be scheduled within ten (10) business days and held no later than sixty (60) calendar days from the date the request for grievance is received by the county, unless otherwise agreed to by the complainant and the county.
 - .41 Notice of the date, time and place of the grievance hearing shall be mailed by the county to the complainant at least thirty (30) calendar days before the grievance hearing is scheduled, unless otherwise agreed to by the complainant and the county.
 - .42 The complainant may have an attorney or other representative present at the hearing to assist him or her.
 - .43 Either party may request a continuance of the grievance hearing not to exceed ten (10) business days. Additional continuance or dismissal of the hearing shall be granted with mutual agreement of all parties involved or for good cause.
 - .44 The county may resolve a grievance at any point by changing a finding of inconclusive or substantiated child abuse and/or neglect to unfounded and notifying the DOJ of the need to remove the individual's name from the CACI.
- .5 The grievance review officer conducting the grievance hearing shall be:
 - .51 A staff or other person not directly involved in the decision, or in the investigation of the action or finding, that is the subject of the grievance hearing.
 - .52 Neither a coworker nor a person directly in the chain of supervision of any of the persons involved in the finding, or in the investigation of the action or finding, that is the subject of the grievance hearing unless the grievance review officer is the director or chief deputy director of the county.

- .521 For the purposes of this section, a coworker includes a staff person who has regular direct contact with the staff involved in the finding related to the grievance, and this person is unable to separate themselves as an impartial reviewer.
- .53 A staff or other person who is knowledgeable of the child welfare services field and capable of objectively reviewing case information pertaining to the grievance.
- .54 A staff or other person who is able to conduct a fair and impartial hearing. A grievance review officer shall voluntarily disqualify him or herself and withdraw from any proceeding in which he or she cannot give a fair and impartial hearing or in which he or she has an interest.
- .541 A claimant may request at any time prior to the close of the record, that the grievance review officer be disqualified upon the grounds that a fair and impartial hearing cannot be held or a decision cannot be rendered.
- (a) Such request shall be ruled upon by the grievance review officer prior to the close of the record. The grievance review officer's determination is subject to rehearing review and judicial review in the same manner and to the same extent as other determinations of the grievance review officer in the proceeding.
- .542 If, at the beginning or during the hearing, the grievance review officer upholds a party's motion for disqualification, the matter shall be postponed. A postponement due to a disqualification of a grievance review officer shall be considered a postponement with good cause. If, after the hearing, but before the close of the record the grievance review officer determines that disqualification is appropriate, the provisions of Section 31-021.55 shall apply.
- .55 A staff or other person who is available to prepare the proposed decision. If the grievance review officer who heard the case is unavailable to prepare the proposed decision, the County Director or his or her designee shall contact the claimant and the county and notify each party that the case is being assigned to another grievance hearing officer for preparation of the decision on the record.
- .551 The notice shall inform the claimant that he or she may elect to have a new grievance hearing held in the matter, provided that he or she agrees to waive the ten (10) day or sixty (60) day period set forth in Section 31-021.4.
- .552 A grievance review officer shall be considered unavailable within the meaning of this section if he or she:
- (a) Is incapacitated.

(b) Has ceased employment as a grievance review officer.

(c) Is disqualified under Section 31-021.54-542.

.6 The grievance review hearing shall be conducted in the following manner:

.61 The grievance hearing shall, to the extent possible, be conducted in a non-adversarial environment.

.62 The county, complainant and his or her representatives, if any, shall be permitted to examine ~~all documents and relevant evidence that is not otherwise made confidential by law, which the opposing party intends to introduce at the grievance hearing~~ all records and evidence related to the county's investigative activities and investigative findings associated with the original referral that prompted the CACI listing, except for information that is not otherwise made confidential by law.

.621 The county and the complainant shall make available for inspection the ~~documents and other evidence they intend to rely upon at the grievance hearing~~ all records and evidence related to the original referral that prompted the CACI listing, except for information that is otherwise made confidential by law, at least ten (10) business days prior to the hearing, to the extent permitted by law.

(a) The county shall redact such names and personal identifiers from the ~~documents~~ records and other evidence as required by law and to protect the identity, health, and safety of those mandated reporters of suspected child abuse and/or neglect pursuant to Penal Code Section 11167. The county may further redact information regarding the mandated reporter's observations of the evidence indicating child abuse and/or neglect.

.622 The county shall release disclosable information to the complainants' attorney or representative only if the complainant has provided the county with a signed consent to do so.

.623 Witness lists shall be available for exchange in advance of the hearing. The county and the complainant shall provide a list of witnesses they intend to call at the grievance hearing at least ten (10) business days prior to the grievance hearing.

.624 Failure to disclose evidence or witness lists in advance of the grievance hearing can constitute grounds for objecting to consideration of the evidence or allowing testimony of a witness during the hearing.

.63 Each party and their attorney or representative, and witnesses while testifying, shall be the only persons authorized to be present during the grievance hearing unless all parties and the grievance review officer consent to the presence of other persons.

- .64 The information disclosed at the grievance hearing may not be used for any other purpose unless otherwise required by law. No information presented at the grievance hearing shall be disclosed to any person other than those directly involved in the matter. Any ~~documents or records~~ and other evidence disclosed by the county to the complainant or the complainant's representative shall be returned to the county at the conclusion of the hearing.
- .65 All testimony shall be given under oath or affirmation.
- .66 The grievance review officer has no subpoena power. However, the parties may call witnesses to the hearing and question the witnesses called by the other party.
- .661 The grievance review officer may limit the questioning of the witness to protect the witness from unwarranted embarrassment, oppression, or harassment.
- .662 The grievance review officer may prevent the presence and/or examination of a child at the grievance hearing for good cause, including but not limited to protecting the child from trauma or to protect his or her health, safety, and/or well-being.
- .663 The grievance review officer may permit the testimony and/or presence of a child only if the child's participation in the grievance hearing is voluntary and the child is capable of providing voluntary consent.
- (a) The grievance review officer may interview the child outside the presence of county staff, complainant and/or any other party in order to determine whether the participation of the child is voluntary, or whether good cause exists for preventing the child from being present or testifying at the grievance hearing.
- .67 The county employee(s) who conducted the investigation that is the subject of the grievance hearing shall be present at the hearing if that person is employed by the county and is available to participate in the grievance hearing.
- .671 For purposes of this paragraph, a conflict in work assignments shall not render the county employee who conducted the investigation unavailable to participate in the hearing.
- .68 The county shall first present its evidence supporting its action or findings that are the subject of the grievance. The complainant will then provide evidence supporting his or her claim that the county's decision should be withdrawn or changed. The county shall then be allowed to present rebuttal evidence in further support of its finding. Thereafter, the grievance review officer may, at his or her discretion, allow the parties to submit any additional evidence as may be warranted to fully evaluate the matter under review.

- .681 The grievance review officer shall have the authority to continue to review for a period not to exceed ten (10) calendar days if additional evidence or witnesses are necessary to make a determination on the issue.
- .7 The county shall have the proceedings of the grievance hearing audio recorded as part of the official administrative record. The county shall possess and maintain the administrative record of the grievance hearing.
- .71 The complainant or the complainant's attorney and/or representative shall be entitled to inspect the recording and any transcripts made thereof, however the county shall keep possession of the recording and transcript and its contents will remain under seal.
- .711 Where the complainant seeks to inspect the transcript, the costs for transcribing a recording of the hearing shall be assessed to the complainant.
- .72 The county shall lodge the administrative record with the court if any party seeks judicial review of the final decision of the county director.
- .8 Grievance hearing decisions shall be rendered as follows:
- .81 The grievance review officer shall make a determination based upon the evidence presented at the grievance hearing, whether the allegation of child abuse and/or neglect is unfounded, inconclusive, or substantiated as defined by the Penal Code Section 11165.12.
- .82 The grievance review officer shall render a written recommended decision within thirty (30) calendar days of the completion of the grievance hearing. The decision shall contain a summary statement of facts, the issues involved, findings, and the basis for the decision.
- .83 The county director shall issue a final written decision adopting, rejecting, or modifying the recommended decision within ten (10) business days after the recommended decision is rendered. The final written decision shall explain why a recommended decision was rejected or modified by the county director.
- .84 A copy of the recommended and final decision shall be sent to the following:
- .841 The complainant that requested the grievance hearing;
- .842 The complainant's attorney or representative, if any; and
- .843 The California Department of Social Services.
- .85 If the complainant chooses to challenge the final decision of the county director, the evidence and information disclosed at the grievance hearing may be part of an administrative record for a writ of mandate and kept confidential. The

administrative record shall be kept confidential, including, if any of the parties request, that it be filed with the court under seal.

- .86 The grievance hearing administrative record shall be retained for a length of time consistent with current law, regulations, or judicial order which governs the retention of the underlying record, but not less than one year from the decision date in any circumstance, and shall include the documents and other information accepted as evidence at the hearing.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: *Gomez v. Saenz* Settlement Agreement and Court Order, Case No: BC284896; Sections 11165.12, 11166(g) and 11167, Penal Code and Sections 827, 10850, and 16503, Welfare and Institutions Code.

Amend Section 31-410 to read:

31-410 TEMPORARY PLACEMENT (Continued)

31-410

.5 The county welfare department or probation department shall begin an assessment for a relative or nonrelative extended family member, as defined in Welfare and Institutions Code Section 319, who either has requested placement of a child pending the detention hearing or whom the social worker/probation officer has identified as willing to provide care for a child pending the detention hearing.

.51 The assessment shall include, but is not limited to, all of the following: (Continued)

.514 The results of a Child Abuse Central Index (CACI) check conducted on all persons 18 years of age and older residing in the home.

HANDBOOK BEGINS HERE

- (a) Penal Code Section 11170(c) in summary states that when Child Abuse Central Index information is released by the Department of Justice for temporary placement of a child, the child protective services agency or court investigator is responsible for notifying, in writing, the person listed in the Child Abuse Central Index that he/she is in the index. The notification shall include the name of the reporting agency and the date of the report.
- (b) Penal Code Section 11170(b)(10)(A) in summary requires persons or agencies who receive Child Abuse Central Index information for purposes of licensing, adopting or placing a child to obtain the underlying report from the reporting agency and make their own independent assessment regarding the quality of the evidence disclosed and its sufficiency for making decisions regarding the placement of a child which will be the most appropriate placement and in the best interest of the child.

HANDBOOK ENDS HERE

.515 A CACI listing does not necessarily preclude placement with a relative or non-related extended family member. Instead, the relative or non-related extended family member may still be entitled to placement upon consideration of all relevant factors. These factors include but are not limited to the following:

- (a) The nature of the substantiated or inconclusive child abuse/neglect report that led to the CACI listing;

- (b) The period of time that has elapsed since the substantiated or inconclusive child abuse/neglect was committed and the number of offenses;
- (c) The circumstances surrounding the commission of the substantiated or inconclusive child abuse/neglect that would demonstrate the likelihood of repetition; and
- (d) Character references.

.52 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code and Assembly Bill 1695, Section 21.

Reference: Sections 309 (as amended by Assembly Bill 1544, Chapter 793, Statutes of 1997), 319 (as amended by Senate Bill 2232, Chapter 1530, Statutes of 1990), 319(d) (as amended by Assembly Bill 1544, Chapter 793, Statutes of 1997), 309, 309(d), 319, 319(f), 361.2(h), 362.7, 727, 11402, and 16507.5(b) (as amended by Assembly Bill 1695, Chapter 653, Statutes of 2001), 361.2(b) and (g), 366(c), 11467.1, and 16501.1(c), Welfare and Institutions Code; Section 1530.8, Health and Safety Code; Sections 11170(b)(10)(A) and 11170(c), Penal Code; and 42 U.S.C. Section 675(1)(A), and *Gomez v. Saenz* Settlement Agreement and Court Order, Case No: BC284896.

Amend Section 31-501 to read:

Post-Hearing: Amend Section 31-501 to read:

CHAPTER 31-500 SPECIAL REQUIREMENTS

31-501 CHILD ABUSE AND NEGLECT REPORTING REQUIREMENTS 31-501

- .1 The county shall report by telephone, fax or electronic submission every known or suspected instance of child abuse and/or neglect as defined in Penal Code Section 11165.6, to law enforcement departments and the District Attorney's Office as specified in Penal Code Section 11166(j).

HANDBOOK BEGINS HERE

Penal Code Section 11165.6 defines child abuse or neglect to include physical injury or death inflicted by other than accidental means upon a child by another person, sexual abuse as defined in Section 11165.1, neglect as defined in Section 11165.2, the willful harming or injuring of a child or the endangering of the person or health of a child, as defined in Section 11165.3, and unlawful corporal punishment or injury as defined in Section 11165.4. "Child abuse or neglect" does not include a mutual affray between minors. "Child abuse or neglect" does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer.

HANDBOOK ENDS HERE

- .2 When the county receives a report of known or suspected child abuse and/or neglect that has allegedly occurred in a licensed facility, the county shall notify the licensing office with jurisdiction over the facility, as specified in Penal Code Sections 11166.1 and 11166.2.
- .3 When the county receives a report of known or suspected child "abuse or neglect in out-of-home care," including a child placed in the home of a relative or non-related extended family member, the county shall create a new referral.
 - .31 The county shall respond to all referrals of "abuse or neglect in out-of-home care" in accordance with the provisions of Section 31-101.
 - .32 A disposition of the investigation shall be recorded in the child's case record.
- .4 The county shall submit a report to the Department of Justice (DOJ) pursuant to Penal Code Section 11169 of every case it actively investigates of known or suspected child abuse that it has determined to be inconclusive or substantiated as defined in Penal Code Section 11165.2.
 - .41 The county shall not submit a report to the DOJ for referrals it investigates and the only allegation substantiated is general neglect or the only incident is a positive toxicology screening at the time of delivery, as specified in Penal Code Sections 11165.2(b) and 11165.13.

- .42 The county shall not submit a report to the DOJ for referrals it investigates and that are determined to be unfounded.
- .4243 The county shall ensure that the report submitted to the DOJ is complete and is in conformity with the California Code of Regulations, Title 11.

HANDBOOK BEGINS HERE

.421431 The California Code of Regulations, Title 11, Standard Reporting Form for Reports of Child Abuse Maintained in the Automated Child Abuse System (ACAS) states:

- (a) The "Child Abuse Summary Report: Form SS BCIA 8583 is the standard reporting form required to report investigative summaries of suspected incidents of child abuse and severe neglect to ACAS. Reporting agencies shall submit Form SS BCIA 8583 to DOJ after an active investigation has been conducted and the incident has been determined not to be unfounded. Reporting agencies must obtain and use the most recent version of the SS BCIA 8583 when submitting the report to DOJ." The SS BCIA 8583 form is maintained by DOJ and may be obtained by contacting that department.

HANDBOOK ENDS HERE

- .4344 The county shall make information received from DOJ pursuant to Penal Code Section 11170(b)(1) available to the persons or agencies as specified in that section.
- .5 Within five (5) business days of the county submitting information to the DOJ to list an individual's name on the Child Abuse Central Index (CACI), the county shall provide to that individual written notification, which shall contain the following information and materials:
- .51 The completed SOC 832, as found in Section 31-003(s)(2), notification that the county has completed an investigation of suspected child abuse and/or severe neglect, which the county has determined to be either inconclusive or substantiated, and has submitted the individual's name to the DOJ for listing on the CACI;
- .511 The completed SOC 832 shall include the victim's name, and a brief description of the alleged abuse and/or severe neglect, and the date and location where this occurred;
- .52 The SOC 833, as found in Section 31-003(s)(3), information explaining the individual's right to request a grievance hearing, and the procedures for the hearing;
- .53 The SOC 834, as found in Section 31-003(s)(4), a request for grievance hearing;

- .531 A completed SOC 834 shall include the referral number, name of county, complete contact information, date of birth, reason for grievance, information regarding an attorney or representative for the individual if any, and the address where to submit the request for grievance hearing.
- .54 The SOC 832, 833 and 834 shall be mailed to the last known address where the notice and request for grievance are most likely to be received by the individual.
- .6 An individual wishing to challenge his or her referral to the CACI may request a grievance hearing utilizing the procedures under Section 31-021. The county may initiate an internal review relating to the matter identified in the request prior to the hearing.
- .7 Where the county's finding of inconclusive or substantiated for abuse and/or severe neglect is changed to unfounded as a result of the grievance hearing or internal review, or a judicial determination of factual innocence of all of the investigated allegations that supported the county's decision to refer the individual's name to the DOJ for listing on CACI, the county shall within five business days submit to the DOJ a revised DOJ form §§ BCIA 8583 containing the change in finding.
- .71 Where the county's finding of inconclusive or substantiated child abuse and/or neglect is changed to a finding other than unfounded as a result of the grievance hearing, the county shall within five business days submit to the DOJ a revised Form §§ BCIA 8583 containing the change in finding.
- .8 The county shall document the outcome of the grievance hearing and any change in the finding of an allegation, if any, within the child's case record.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: *Gomez v. Saenz* Settlement Agreement and Court Order, Case No: BC284896 and Sections 11165.12, 11165.5, 11165.6, 11166, 11166.1, 11166.2, 11166.3, 11169, and 11170(b)(1), Penal Code.

SAMPLE

MAR 1 2010

NOTICE OF CHILD ABUSE CENTRAL INDEX LISTING

NAME OF ALLEGED SUSPECT

COUNTY OF

The _____ County Child Welfare Services agency has completed an investigation of alleged child abuse or neglect and determined that the allegations of abuse or neglect are either inconclusive or substantiated. Pursuant to Penal Code Section 11169(b), this is notice that the finding of inconclusive or substantiated abuse or neglect was sent to the California Department of Justice (DOJ) for inclusion in the Child Abuse Central Index (CACI). The CACI contains certain information that enables authorized entities to locate investigations of alleged child abuse or neglect conducted by county child welfare departments.

Law enforcement agencies, court investigators, probation departments and district attorneys may use the CACI when investigating allegations of child abuse or neglect. The CACI is also used by licensing agencies and county welfare agencies to investigate persons who apply for licenses to care for children. If any of these agencies receive information from the CACI that there was a prior investigation of child abuse or neglect, they are required to investigate the child abuse or neglect allegation(s).

REPORTS OF SUSPECTED CHILD ABUSE MAINTAINED BY DOJ ARE CONFIDENTIAL AND MAY ONLY BE DISCLOSED TO STATUTORILY AUTHORIZED PARTIES (PENAL CODE SECTION 11167.5).

The County has determined that the allegation of child abuse or neglect against you is:

☐ Inconclusive

or

☐ Substantiated

An inconclusive finding is defined by Penal Code Section 11165.12(c) to mean that the investigator who conducted the investigation determined that the allegation of abuse or neglect was not unfounded but there is insufficient evidence to determine whether child abuse or neglect has occurred.

A substantiated finding is defined by Penal Code section 11165.12(b) to mean that the investigator who conducted the investigation determined that, based upon the evidence, it was more likely than not that child abuse or neglect occurred.

The term child abuse and neglect is defined by Penal Code section 11165.6. This determination is based on the following information discovered during the investigation:

NAME OF ALLEGED VICTIM(S):

DATE(S) AND LOCATION(S) THE ALLEGED ABUSE OR NEGLECT OCCURRED:

THE SPECIFIC ACT(S) OF ABUSE OR NEGLECT ALLEGED AGAINST YOU IS/ARE AS FOLLOWS:

REFERRAL NUMBER:

No action on your part is required at this time. However, if you want to challenge your listing on the CACI, you must complete the enclosed Request for Grievance Hearing form, and mail it to the following address:

You must mail the completed Request for Grievance Hearing form no later than 30 days from the date of this notice. As part of the grievance hearing procedures, you may inspect all records and evidence related to investigation of the referral, except for information made otherwise confidential by law. This information may be requested by checking the box under the signature line of the Request for Grievance Hearing form. For more information, you can contact:

COUNTY STAFF PERSON:

PHONE

DATED

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GRIEVANCE PROCEDURES FOR CHALLENGING REFERENCE TO THE CHILD ABUSE CENTRAL INDEX

1. Within five (5) business days of submitting an individual's name to the Department of Justice (DOJ) for listing on the Child Abuse Central Index (CACI), the following forms shall be sent to the individual at his/her last known address:
 - a. The Notice of Child Abuse Central Index Listing (SOC 832),
 - b. Grievance Procedures for Challenging Reference to the Child Abuse Central Index (SOC 833), and
 - c. Request for Grievance Hearing (SOC 834).
2. An individual wishing to challenge his/her listing on the CACI may request a grievance hearing pursuant to the following procedure. This does not preclude the county from initiating an internal investigation to address or rectify the matter identified in the request for grievance, prior to the hearing.
 - a. The individual wishing to challenge his/her listing on the CACI shall send by U.S. mail, fax, or in person, a completed SOC 834 form or a written request for grievance hearing, signed by the complainant that includes the referral number, name of county, complete contact information, date of birth, a reason for grievance which the individual believes provides a basis for reversal of the county decision, and if represented, the name and contact information for the representative.
 - b. The request must be received by the county within thirty (30) calendar days of the date of notice. Failure to send the completed SOC 834 form, or written request, within the prescribed timeframe shall constitute a waiver of the right to a grievance hearing.
 - c. An individual is deemed aware of the county decision when the county mails the notification to the individual's last known address or any other address known by the county where the notice and request for grievance are most likely to be received by the individual.
 - d. For individuals to whom no prior notification was mailed regarding his/her submission to the CACI, the individual shall file the completed SOC 834 form within thirty (30) calendar days of becoming aware that he/she is listed in the CACI and becoming aware of the grievance process.
 - e. When an individual requests, the county shall assist the individual in the completion of the SOC 834 form or written request for grievance hearing.
3. The following grievance hearing procedures shall only apply for challenges to county submission for listing individuals on the CACI.
 - a. A grievance hearing request shall be denied when a court of competent jurisdiction has determined that the suspected child abuse and/or neglect has occurred, or when the allegation of child abuse and/or neglect resulting in the referral to CACI is pending before the court.
 - b. If the information in 3 (a) no longer applies, a complainant (an individual wishing to challenge his/her listing on the CACI) can submit the completed SOC 834 form, or written request, within thirty (30) calendar days of the conclusion of the judicial matter to request a grievance hearing.
 - c. The grievance hearing shall be scheduled within ten (10) business days and held no later than sixty (60) calendar days from the date the request for grievance is received by the county, unless otherwise agreed to by the complainant and the county.
 - d. Notice of the date, time, and place of the grievance hearing shall be mailed by the county to the complainant at least thirty (30) calendar days before the grievance hearing is scheduled, unless otherwise agreed to by the complainant and the county.
 - e. The complainant may have an attorney or other representative present at the hearing to assist him/her.
 - f. Either party may request a continuance of the grievance hearing not to exceed ten (10) business days. Additional continuance or dismissal of the hearing shall be granted with mutual agreement of all parties involved or for good cause.
 - g. The county may resolve a grievance at any point by changing a finding of inconclusive or substantiated child abuse and/or neglect to unfounded and notifying the DOJ of the need to remove the complainant's name from the CACI.
4. The grievance review officer conducting the grievance hearing shall be:
 - a. A staff or other person not directly involved in the decision, or in the investigation of the action or finding, that is the subject of the grievance hearing.
 - b. Neither a co-worker nor a person directly in the chain of supervision of any of the persons involved in the finding, or in the investigation of the action or finding, that is the subject of the grievance hearing unless the grievance review officer is the director or chief deputy director of the county.
 - c. A staff or other person who is knowledgeable of the child welfare services field, capable of objectively reviewing case information pertaining to the grievance, able to conduct a fair and impartial hearing, and available to prepare the proposed decision.
5. The grievance review officer shall voluntarily disqualify him/herself and withdraw from any proceeding in which he/she cannot give a fair and impartial hearing or in which he/she has an interest.
 - a. A claimant may request at any time prior to the close of the record, that the grievance review officer be disqualified upon the grounds that a fair and impartial hearing cannot be held or a decision cannot be rendered. Such request shall be ruled upon by the grievance review officer prior to the close of the record.
 - b. If, at the beginning or during the hearing, the grievance review officer upholds a party's motion for disqualification, the matter shall be postponed.
6. If the grievance review officer who heard the case is unavailable to prepare the proposed decision, the county director or his/her designee shall contact the claimant and the county and notify each party that the case is being assigned to another grievance hearing officer for preparation of the decision on the record.
 - a. The notice shall inform the claimant that he/she may elect to have a new grievance hearing held in the matter, provided that he/she agrees to waive the ten (10) day or sixty (60) day period.
 - b. A grievance review officer shall be considered unavailable within the meaning of this section if he/she: is incapacitated; has ceased employment as a grievance review officer; or is disqualified under section 5, above.

GRIEVANCE PROCEDURES FOR CHALLENGING REFERENCE TO THE CHILD ABUSE CENTRAL INDEX

7. The grievance review hearing shall, to the extent possible, be conducted in a non-adversarial environment.
8. The county, complainant, and his/her representatives, if any, shall be permitted to examine all records and relevant evidence that is not otherwise made confidential by law, which the opposing party intends to introduce at the grievance hearing.
 - a. The county and the complainant shall make available for inspection all records and evidence related to the original referral that prompted the CACI listing, except for information that is otherwise made confidential by law, at least ten (10) business days prior to the hearing.
 - b. The county shall redact such names and personal identifiers from the records and other evidence as required by law and to protect the identity, health, and safety of those mandated reporters of suspected child abuse and/or neglect pursuant to Penal Code section 11167. The county may further redact information regarding the mandated reporter's observations of the evidence indicating child abuse and/or neglect.
 - c. The county shall release disclosable information to the complainant's attorney or representative only if the complainant has provided the county with a signed consent to do so.
 - d. Witness lists shall be available for exchange in advance of the hearing. The county and the complainant shall provide a list of witnesses they intend to call at the grievance hearing at least ten (10) business days prior to the grievance hearing.
 - e. Failure to disclose evidence or witness lists in advance of the grievance hearing can constitute grounds for objecting to consideration of the evidence or allowing testimony of a witness during the hearing.
 - f. Each party and their attorney or representative, and witnesses while testifying, shall be the only persons authorized to be present during the grievance hearing unless all parties and the grievance review officer consent to the presence of other persons.
 - g. The information disclosed at the grievance hearing may not be used for any other purpose. No information presented at the grievance hearing shall be disclosed to any person other than those directly involved in the matter, unless otherwise required by law. Any records and other evidence disclosed by the county to the complainant or the complainant's representative shall be returned to the county at the conclusion of the hearing.
9. All testimony shall be given under oath or affirmation.
 - a. The grievance review officer has no subpoena power. However, the parties may call witnesses to the hearing and question the witnesses called by the other party. The grievance review officer may limit the questioning of the witness to protect the witness from unwarranted embarrassment, oppression, or harassment.
 - b. The grievance review officer may prevent the presence and/or examination of a child at the grievance hearing for good cause, including but not limited to, protecting the child from trauma or to protect his/her health, safety, and/or well-being.
 - c. The grievance review officer may permit the testimony and/or presence of a child only if the child's participation in the grievance hearing is voluntary and the child is capable of providing voluntary consent.
 - d. The grievance review officer may interview the child outside the presence of county staff, complainant, and/or any other party in order to determine whether the participation of the child is voluntary or whether good cause exists for preventing the child from being present or testifying at the grievance hearing.
 - e. The county employee(s) who conducted the investigation that is the subject of the grievance hearing shall be present at the hearing if that person is employed by the county and is available to participate in the grievance hearing. A conflict in work assignments shall not render the county employee who conducted the investigation unavailable to participate in the hearing.
 - f. The county shall first present its evidence supporting its action or findings that are the subject of the grievance. The complainant will then provide evidence supporting his/her claim that the county's decision should be withdrawn or changed. The county shall then be allowed to present rebuttal evidence in further support of its finding. Thereafter, the grievance review officer may, at his/her discretion, allow the parties to submit any additional evidence as may be warranted to fully evaluate the matter under review.
 - g. The grievance review officer shall have the authority to continue to review for a period not to exceed ten (10) calendar days if additional evidence or witnesses are necessary to make a determination on the issue.
10. The county shall have the proceedings of the grievance hearing audio recorded as part of the official administrative record. The county shall possess and maintain the administrative record of the grievance hearing.
 - a. The complainant or the complainant's attorney and/or representative shall be entitled to inspect the recording and any transcripts made thereof; however, the county shall keep possession of the recording and transcript and its contents will remain under seal.
 - b. Where the complainant seeks to inspect the transcript, the costs for transcribing a recording of the hearing shall be assessed to the complainant.
 - c. The county shall lodge the administrative record with the court if any party seeks judicial review of the final decision of the county director.
11. Grievance hearing decisions shall be rendered as follows:
 - a. The grievance review officer shall make a determination based upon the evidence presented at the grievance hearing, whether the allegation of child abuse and/or neglect is unfounded, inconclusive, or substantiated as defined by the Penal Code section 11165.12.
 - b. The grievance review officer shall render a written recommended decision within thirty (30) calendar days of the completion of the grievance hearing. The decision shall contain a summary statement of facts, the issues involved, findings, and the basis for the decision. The county director shall issue a final written decision adopting, rejecting, or modifying the recommended decision within ten (10) business days after the recommended decision is rendered. The final written decision shall explain why a recommended decision was rejected or modified by the county director.
 - c. A copy of the recommended and final decision shall be sent to the following:
 - i. The complainant that requested the grievance hearing;
 - ii. The complainant's attorney or representative, if any; and
 - iii. The California Department of Social Services.
 - d. If the complainant chooses to challenge the final decision of the county director, the evidence and information disclosed at the grievance hearing may be part of an administrative record for a writ of mandate and kept confidential.
 - e. The administrative record shall be kept confidential, including if any of the parties request that it be filed with the court under seal.
 - f. The grievance hearing administrative record shall be retained for a length of time consistent with current law, regulations, or judicial order which governs the retention of the underlying record, but not less than one year from the decision date in any circumstance, and shall include all records accepted as evidence at the hearing.

REQUEST FOR GRIEVANCE HEARING

REFERRAL NUMBER

COUNTY OF

No grievance hearing shall be required when a court of competent jurisdiction has determined that the suspected abuse or neglect has occurred, or when the allegation of child abuse or neglect resulting in the referral to the Child Abuse Central Index is pending before the court.

A. CONTACT INFORMATION

NAME:

DATE OF BIRTH

STREET ADDRESS:

CITY:

STATE:

ZIP CODE:

TELEPHONE NUMBER:

ALTERNATE NUMBER:

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I hereby request a grievance hearing to dispute the decision to list my name on the Child Abuse Central Index (CACI). I acknowledge that I have received a copy of the Notice of Child Abuse Central Index Listing and a copy of the Grievance Hearing Procedures.

B. REASON FOR GRIEVANCE

The reason I am requesting a grievance hearing is because *(YOU MUST CHECK AT LEAST ONE)*:

- ☐ I am not the person who committed the alleged act(s) of abuse or neglect.
- ☐ The alleged act(s) of abuse or neglect did not occur.
- ☐ Even if the alleged act(s) occurred, these acts are not abuse or neglect within the meaning of the Child Abuse and Neglect Reporting Act.
- ☐ Other. If this box is checked, please explain below. If you need more space for your explanation, you may attach additional pages to this form.

SIGNATURE:

DATED:

- ☐ Check this box if you would like to schedule an appointment so that you can examine all records and evidence related to investigation of the referral, except for information made otherwise confidential by law. At this appointment, you must also bring and disclose to the county all records and evidence that support your claim that you should not be listed on the CACI.

You may have an attorney or other representative present at the hearing to assist you. If you intend to have an attorney or other representative present, please provide us with the following information.

C. ATTORNEY/REPRESENTATIVE INFORMATION

ATTORNEY OR REPRESENTATIVE'S NAME:

PHONE NUMBER:

()

ATTORNEY OR REPRESENTATIVE'S ADDRESS:

Please return this Request for Grievance to this address:

Address:

Attn: